

No. 12553

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United States  
Court of Appeals  
for the Ninth Circuit.

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ARNOLD ENRIQUEZ,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

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Transcript of Record

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Appeal from the United States District Court  
District of Arizona.

**FILED**

OCT - 4 1950

PAUL P. O'BRIEN,  
CLERK



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In the District Court of the United States  
for the District of Arizona

No. C-8658 Phx.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARTURO C. LEYVAS, ARNOLD ENRIQUEZ,  
RAY C. LEYVAS, CONNIE DUARTE,  
ARTURO E. JEREZ, and JOE MARTINEZ,  
Defendants.

### INDICTMENT

Violations: 21 U.S.C.A. 174 and 26 U.S.C.A. 2554(a) (Importation, concealment, transportation and sale of Narcotic Drugs); and 18 U.S.C.A. 88 (1946 Ed) and 18 U.S.C.A. 371 (Conspiracy to violate 21 U.S.C.A. 174 and 26 U.S.C.A. 2554(a)).

The Grand Jury Charges:

Count One  
(21 U.S.C.A. 174)

That on or about the 16th day of February, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 160 grains of prepared smoking opium.

## Count Two

That on or about the 16th day of February, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 160 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

## Count Three

(26 U.S.C.A. 2554(a))

That on or about the 16th day of February, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of prepared smoking opium, to-wit, approximately 160 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Viron A. Elkins to the said Arturo E. Jerez, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554 (a).

## Count Four

(21 U.S.C.A. 174)

That on or about the 28th day of February, 1948, within the District of Arizona, County of Maricopa,

the defendant, Arturo E. Jerez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 517 grains of prepared smoking opium.

#### Count Five

That on or about the 28th day of February, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 517 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

#### Count Six

(26 U.S.C.A. 2554(a))

That on or about the 28th day of February, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of prepared smoking opium, to-wit, approximately 517 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Viron A. Elkins to the said Arturo E. Jerez, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Seven  
(21 U.S.C.A. 174)

That on or about the 1st day of May, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 517 grains of prepared smoking opium.

Count Eight

That on or about the 1st day of May, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 517 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Nine  
(26 U.S.C.A. 2554(a))

That on or about the 1st day of May, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did then and there unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of prepared smoking opium, to wit, approximately 517 grains of prepared smoking opium,

defendant then and there well knew had been imported into the United States of America contrary to law.

Count Fifteen  
(26 U.S.C.A. 2554(a))

That on or about the 19th day of August, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of prepared smoking opium, to-wit, approximately 14,583 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Viron A. Elkins to the said Arturo E. Jerez, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Sixteen  
(21 U.S.C.A. 174)

That on or about the 3rd day of October, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 693 grains of prepared smoking opium.

Count Seventeen

That on or about the 3rd day of October, 1948, defendant then and there well knew had been im-



the defendant, Arturo E. Jerez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment after unlawful importation thereof, of approximately 693 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Eighteen  
(26 U.S.C.A. 2554(a))

That on or about the 3rd day of October, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did unlawfully, fraudulently and feloniously sell, distribute and give to one Okla W. Johnson a certain quantity of prepared smoking opium, to-wit, approximately 693 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Okla W. Johnson to the said Arturo E. Jerez, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Nineteen  
(21 U.S.C.A. 174)

On or about the 10th day of October, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so

doing, approximately 351 grains of prepared smoking opium.

Count Twenty

That on or about the 10th day of October, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 351 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Twenty-One  
(26 U.S.C.A. 2554(a))

That on or about the 10th day of October, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo E. Jerez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Okla W. Johnson a certain quantity of prepared smoking opium, to-wit, approximately 351 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Okla W. Johnson to the said Arturo E. Jerez, on a form issued in blank for that purpose by Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

## Count Twenty-Two

(21 U.S.C.A. 174)

That on or about the 29th day of October, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowing and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 2,447 grains of prepared smoking opium.

## Count Twenty-Three

That on or about the 29th day of October, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 2,447 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

## Count Twenty-Four

(26 U.S.C.A. 2554(a))

That on or about the 29th day of October, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Frank W. Colbert a certain quantity of prepared smoking opium, to-wit, approximately 2,447 grains of prepared smoking opium, at one time, which said sale was not made in pursu-

ance of a written order of the said Frank W. Colbert to the said Arturo C. Leyvas, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Twenty-Five  
(21 U.S.C.A. 174)

That on or about the 5th day of November, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 10,192 grains of prepared smoking opium.

Count Twenty-Six

That on or about the 5th day of November, 1948, within the District of Arizona, County of Maricopa, the defendant Arturo C. Leyvas, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment after unlawful importation thereof, of approximately 10,192 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Twenty-Seven  
(26 U.S.C.A. 2554(a))

That on or about the 5th day of November, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did unlawfully,

fraudulently and feloniously sell, distribute and give away to one Okla W. Johnson a certain quantity of prepared smoking opium, to-wit, approximately 10,192 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Okla W. Johnson to the said Arturo C. Leyvas, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States of America, as required by virtue of 26 U.S.C.A. 2554(a).

Count Twenty-Eight  
(21 U.S.C.A. 174)

That on or about the 11th day of November, 1948, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately  $15\frac{3}{4}$  grains of a morphine derivative, namely, heroin hydrochloride.

Count Twenty-Nine

That on or about the 11th day of November, 1948, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately  $15\frac{3}{4}$  grains of a morphine derivative, namely, heroin hydrochloride, which said heroin hydrochloride said defendant then and there well

knew had been imported into the United States of America contrary to law.

Count Thirty  
(26 U.S.C.A. 2554(a))

That on or about the 11th day of November, 1948, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Frank W. Colbert a certain quantity of a morphine derivative, namely heroin hydrochloride, to-wit, approximately  $15\frac{3}{4}$  grains of heroin hydrochloride, at one time, which said sale was not made in pursuance of a written order of the said Frank W. Colbert to the said Connie Duarte, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Thirty-One  
(21 U.S.C.A. 174)

That on or about the 14th day of November, 1948, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 118 grains of a morphine derivative, namely, heroin hydrochloride.

Count Thirty-Two

That on or about the 14th day of November, 1948, within the District of Arizona, County of Maricopa,



the defendant, Connie Duarte, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 118 grains of a morphine derivative, namely, heroin hydrochloride, which said heroin hydrochloride said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Thirty-Three  
(26 U.S.C.A. 2554(a))

That on or about the 14th day of November, 1948, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Okla W. Johnson a certain quantity of a morphine derivative, namely heroin hydrochloride, to-wit, approximately 118 grains of heroin hydrochloride, at one time, which said sale was not made in pursuance of a written order of the said Okla W. Johnson to the said Connie Duarte, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Thirty-Four  
(21 U.S.C.A. 174)

That on or about the 17th day of November, 1948, within the District of Arizona, County of Maricopa, the defendants Arturo C. Leyvas and Connie Duarte, did then and there knowingly, and fraudu-

lently, contrary to law, import and bring into the United States, and assist in so doing, approximately 381 grains of a morphine derivative, namely, heroin hydrochloride.

#### Count Thirty-Five

That on or about the 17th day of November, 1948, within the District of Arizona, County of Maricopa, the defendants Arturo C. Leyvas and Connie Duarte, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 381 grains of a morphine derivative, namely, heroin hydrochloride, which said heroin hydrochloride said defendants then and there well knew had been imported into the United States of America contrary to law.

#### Count Thirty-Six (26 U.S.C.A. 2554(a))

That on or about the 17th day of November, 1948, within the District of Arizona, County of Maricopa, the defendants Arturo C. Leyvas and Connie Duarte, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Okla W. Johnson a certain quantity of a morphine derivative, namely heroin hydrochloride, to-wit, approximately 381 grains of heroin hydrochloride, at one time, which said sale was not made in pursuance of a written order of the said Okla W. Johnson to the said Arturo C. Leyvas and Connie Duarte, or either of them, on a form issued in blank for that purpose



by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Thirty-Seven  
(21 U.S.C.A. 174)

That on or about the 16th day of December, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States and assist in so doing, approximately  $2\frac{1}{2}$  grains of an opium derivative, namely, morphine hydrochloride.

Count Thirty-Eight

That on or about the 16th day of December, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately  $2\frac{1}{2}$  grains of an opium derivative, namely, morphine hydrochloride, which said morphine hydrochloride said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Thirty-Nine  
(26 U.S.C.A. 2554(a))

That on or about the 16th day of December, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did unlawfully, fraudulently and feloniously sell, distribute and

give away to one Viron A. Elkins a certain quantity of an opium derivative, namely morphine hydrochloride, to-wit, approximately 21½ grains of morphine hydrochloride, at one time, which said delivery was not made in pursuance of a written order of the said Viron A. Elkins to the said Arturo C. Leyvas, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virute of 26 U.S.C.A. 2554(a).

Count Forty  
(21 U.S.C.A. 174)

That on or about the 16th day of December, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 378 grains of a morphine derivative, namely, heroin hydrochloride.

Count Forty-One

That on or about the 16th day of December, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 378 grains of a morphine derivative, namely, heroin hydrochloride, which said heroin hydrochloride said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Forty-Two  
(26 U.S.C.A. 2554(a))

That on or about the 16th day of December, 1948, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of a morphine derivative, namely heroin hydrochloride, to-wit, approximately 378 grains of heroin hydrochloride, at one time, which said sale was not made in pursuance of a written order of the said Viron A. Elkins to the said Arturo C. Leyvas, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Forty-Three  
(21 U.S.C.A. 174)

That on or about the 8th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Joe Martinez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 179 grains of prepared smoking opium.

Count Forty-Four

That on or about the 8th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Joe Martinez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and con-

cealment, after unlawful importation thereof, of approximately 179 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Forty-Five  
(26 U.S.C.A. 2554(a))

That on or about the 8th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Joe Martinez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Charles Cobos a certain quantity of prepared smoking opium, to-wit, approximately 179 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Charles Cobos to the said Joe Martinez, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Forty-Six  
(21 U.S.C.A. 174)

That on or about the 14th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately  $5\frac{1}{4}$  grains of an opium derivative, namely, morphine hydrochloride.

## Count Forty-Seven

That on or about the 14th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately  $5\frac{1}{4}$  grains of an opium derivative, namely morphine hydrochloride, which said morphine hydrochloride said defendant then and there well knew had been imported into the United States of America contrary to law.

## Count Forty-Eight

(26 U.S.C.A. 2554(a))

That on or about the 14th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of an opium derivative, namely, morphine hydrochloride, to wit, approximately  $5\frac{1}{4}$  grains of morphine hydrochloride, at one time, which said delivery was not made in pursuance of a written order of the said Viron A. Elkins to the said Arturo C. Leyvas, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of the 26 U.S.C.A. 2554(a).

Count Forty-Nine  
(21 U.S.C.A. 174)

That on or about the 14th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Aruro C. Leyvas, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 235 grains of prepared smoking opium.

Count Fifty

That on or about the 14th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 235 grains of prepared smoking opium, which said prepared smoking opium said defendant than and there well knew had been imported into the United States of America contrary to law.

Count Fifty-One  
(26 U.S.C.A. 2554(a))

That on or about the 14th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of prepared smoking opium, to wit, approximately 235 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Viron A. Elkins to the



said Arturo C. Leyvas, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Fifty-Two  
(21 U.S.C.A. 174)

That or about the 14th day of January, 1949, within the District of Arizona, County of Maricopa, the defendants, Arnold Enriquez, Arturo C. Leyvas and Arturo Jerez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 11,229 grains of prepared smoking opium.

Count Fifty-Three

That on or about the 14th day of January, 1949, within the District of Arizona, County of Maricopa, the defendants, Arnold Enriquez, Arturo C. Leyvas and Arturo Jerez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 11,229 grains of prepared smoking opium, which said prepared smoking opium said defendants then and there well knew had been imported into the United States of America contrary to law.

Count Fifty-Four  
(26 U.S.C.A. 2554(a))

That on or about the 14th day of January, 1949, within the District of Arizona, County of Maricopa, the defendants, Arnold Enriquez, Arturo C. Leyvas

and Arturo Jerez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Okla W. Johnson a certain quantity of prepared smoking opium, to wit, approximately 11,229 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Okla W. Johnson to the said Arnold Enriquez, Arturo C. Leyvas and Arturo Jerez, or either or any of them, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Fifty-Five  
(21 U.S.C.A. 174)

That on or about the 15th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Joe Martinez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 235 grains of prepared smoking opium.

Count Fifty-Six

That on or about the 15th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Joe Martinez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 235 grains of prepared smoking opium, which said prepared smoking opium said defend-



ant then and there well knew had been imported into the United States of America contrary to law.

Count Fifty-Seven  
(26 U.S.C.A. 2554(a))

That on or about the 15th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Joe Martinez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Charles Cobos a certain quantity of prepared smoking opium, to wit, approximately 235 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Charles Cobos to the said Joe Martinez, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Fifty-Eight  
(21 U.S.C.A. 174)

That on or about the 29th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Joe Martinez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 2,625 grains of prepared smoking opium.

Count Fifty-Nine

That on or about the 29th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Joe Martinez, did then and there

knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 2,625 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Sixty  
(26 U.S.C.A. 2554(a))

That on or about the 29th day of January, 1949, within the District of Arizona, County of Maricopa, the defendant, Joe Martinez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Okla W. Johnson a certain quantity of prepared smoking opium, to wit, approximately 2,625 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Okla W. Johnson to the said Joe Martinez, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Sixty-One  
(21 U.S.C.A. 174)

That on or about the 2nd day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in

so doing, approximately 287 grains of prepared smoking opium.

Count Sixty-Two

That on or about the 2nd day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 287 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Sixty-Three  
(26 U.S.C.A. 2554(a))

That on or about the 2nd day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of prepared smoking opium, to wit, approximately 287 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Viron A. Elkins to the said Connie Duarte, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Sixty-Four  
(21 U.S.C.A. 174)

That on or about the 6th day of February, 1949, within the District of Arizona, County of Maricopa, the defendants, Joe Martinez and Arnold Enriquez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 145 grains of prepared smoking opium.

Count Sixty-Five

That on or about the 6th day of February, 1949, within the District of Arizona, County of Maricopa, the defendants, Joe Martinez and Arnold Enriquez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 145 grains of prepared smoking opium, which said prepared smoking opium said defendants then and there well knew had been imported into the United States of America contrary to law.

Count Sixty-Six  
(26 U.S.C.A. 2554(a))

That on or about the 6th day of February, 1949, within the District of Arizona, County of Maricopa, the defendants, Joe Martinez and Arnold Enriquez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Charles Cobos a certain quantity of prepared smoking opium, to wit,

approximately 145 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Charles Cobos to the said Joe Martinez and Arnold Enriquez, or either of them, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Sixty-Seven  
(21 U.S.C.A. 174)

That on or about the 8th day of February, 1949, within the District of Arizona, County of Maricopa, the defendants, Arnold Enriquez, Arturo C. Leyvas and Joe Martinez, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 145 grains of prepared smoking opium.

Count Sixty-Eight

That on or about the 8th day of February, 1949, within the District of Arizona, County of Maricopa, the defendants, Arnold Enriquez, Arturo C. Leyvas and Joe Martinez, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 145 grains of prepared smoking opium, which said prepared smoking opium said defendants then and there well knew had been imported into the United States of America contrary to law.

Count Sixty-Nine  
(26 U.S.C.A. 2554(a))

That on or about the 8th day of February, 1949, within the District of Arizona, County of Maricopa, the defendants, Arnold Enriquez, Arturo C. Leyvas and Joe Martinez, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Charles Cobos a certain quantity of prepared smoking opium, to wit, approximately 145 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Charles Cobos to the said Arnold Enriquez, Arturo C. Leyvas and Joe Martinez, or either or any of them, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Seventy  
(21 U.S.C.A. 174)

That on or about the 8th day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 188 grains of prepared smoking opium.

Count Seventy-One

That on or about the 8th day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did then and there

knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 188 grains of prepared smoking opium, which said prepared smoking opium said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Seventy-Two  
(26 U.S.C.A. 2554(a))

That on or about the 8th day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Arturo C. Leyvas, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of prepared smoking opium, to wit, approximately 188 grains of prepared smoking opium, at one time, which said sale was not made in pursuance of a written order of the said Viron A. Elkins to the said Arturo C. Leyvas, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).

Count Seventy-Three  
(21 U.S.C.A. 174)

That on or about the 14th day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in



so doing, approximately  $1\frac{3}{4}$  grains of a morphine derivative, namely, heroin hydrochloride.

Count Seventy-Four

That on or about the 14th day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately  $1\frac{3}{4}$  grains of a morphine derivative, namely, heroin hydrochloride, which said heroin hydrochloride said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Seventy-Five  
(26 U.S.C.A. 2554(a))

That on or about the 14th day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Connie Duarte, did unlawfully, fraudulently and feloniously sell, distribute and give away to one Viron A. Elkins a certain quantity of a morphine derivative, namely, heroin hydrochloride, to wit, approximately  $1\frac{3}{4}$  grains of heroin hydrochloride, at one time, which said delivery was not made in pursuance of a written order of the said Viron A. Elkins to the said Connie Duarte, on a form issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of 26 U.S.C.A. 2554(a).



Count Seventy-Six  
(21 U.S.C.A. 174)

That on or about the 15th day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Ray C. Leyvas, did then and there knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 24 grains of prepared smoking opium, and approximately 15 grains of an opium derivative, namely, yen shee.

Count Seventy-Seven

That on or about the 15th day of February, 1949, within the District of Arizona, County of Maricopa, the defendant, Ray C. Leyvas, did then and there knowingly, feloniously and fraudulently receive, conceal and facilitate the transportation and concealment, after unlawful importation thereof, of approximately 24 grains of prepared smoking opium, and approximately 15 grains of an opium derivative, namely, yen shee, which said prepared smoking opium and yen shee said defendant then and there well knew had been imported into the United States of America contrary to law.

Count Seventy-Eight  
(18 U.S.C.A. 88 (1946 Ed.) and 18 U.S.C.A. 371)

1. That in the month of February, 1948, and continuing thereafter until on or about the 16th day of February, 1949, in the County of Maricopa, Arizona, and within the District of Arizona, and

at other places to the Grand Jurors unknown, the said defendants, Arturo C. Leyvas, Arnold Enriquez, Ray C. Leyvas, Connie Duarte, Arturo E. Jerez and Joe Martinez, the identical persons named as defendants in one or more of the above and foregoing seventy-seven counts of this indictment, and in this count hereinafter referred to as the conspirators, did wilfully, knowingly and feloniously conspire, combine, confederate and agree between themselves, and each other, and other persons to the Grand Jurors unknown, to commit the diverse offenses charged against said defendants in the first seventy-seven counts of this indictment preceding this count, and made offenses by Title 18 U.S.C.A. 174 and Title 26 U.S.C.A. 2554(a), the allegations of which seventy-seven counts of this indictment are incorporated in this count by reference as fully as if they were herein repeated.

2. That the object of said conspiracy was knowingly, unlawfully, wilfully and fraudulently, in said District of Arizona, to import and bring into the United States, and cause to be imported and brought into the United States, prepared smoking opium, morphine hydrochloride (an opium derivative), heroin hydrochloride (a morphine derivative) and yen shee (an opium derivative,) and to wilfully and fraudulently receive, conceal and facilitate the transportation and concealment, after the unlawful importation thereof, of the above-named narcotic drugs; and further, to unlawfully, fraudulently and feloniously sell, distribute and give away to diverse persons, certain quantities of the said narcotic

drugs, not in pursuance of written orders from the transferees to the said conspirators, on forms issued in blank for that purpose by the Secretary of the Treasury of the United States as required by virtue of Title 26 U.S.C.A. 2554(a); that in furtherance of said conspiracy and to effect the object thereof, the said conspirators did, among others, commit the following overt acts, to wit:

(a) That at the time and place as alleged in each of the first seventy-seven counts of this indictment, each of the said conspirators committed the offense charged against said conspirators in each of said counts, in the manner charged therein, the allegations concerning which in said counts are hereby incorporated by reference thereto in this count as fully and with like effect, for all purposes, as though the same were here reiterated and repeated.

(b) That on or about February 15, 1948, at Tempe, Arizona, the conspirator, Arturo Jerez, offered to sell one Viron A. Elkins prepared smoking opium.

(c) That on or about December 15, 1948, at Phoenix, Arizona, conspirator Ray Leyvas had a conversation with one Viron A. Elkins.

(d) That on or about December 15, 1948, at Phoenix, Arizona, conspirator Ray Leyvas told one Viron A. Elkins that he thought he could get the said Viron A. Elkins an ounce of heroin.

(e) That on or about the 16th day of December, 1948, at Tempe, Arizona, the conspirator Ray Leyvas informed the said Viron A. Elkins that he would bring the heroin to him about 5:30 p.m. that day.

(f) That on or about the 16th day of December, 1948, at Tempe, Arizona, conspirator Ray Leyvas, in company with conspirators Connie Duarte and Arturo C. Leyvas, introduced the said Arturo C. Leyvas to the said Viron A. Elkins as his brother.

(g) That on or about the 16th day of December, 1948, at Tempe, Arizona, conspirator Arturo C. Leyvas delivered to the said Viron A. Elkins a capsule containing white powder.

(h) That on or about January 8, 1949, at Phoenix, Arizona, conspirator Arnold Enriquez told one Charles Cobos that he would deliver to him a small jar of smoking opium for the price of \$50.00.

(i) That on or about January 8, 1949, at Phoenix, Arizona, conspirator Joe Martinez, at the request of conspirator Arnold Enriquez, delivered to the said Charles Cobos a small jar of prepared smoking opium.

(j) That on or about January 12, 1949, at Phoenix, Arizona, conspirator Arnold Enriquez told one Frank W. Colbert that "I would like to take care of you but there isn't any stuff in town. Art is out of town now to bring in a

load and he will be here on Friday but until he comes back there is no stuff here.”

A True Bill.

/s/ W. L. ALLISON,

Foreman.

/s/ FRANK E. FLYNN,

United States Attorney,

for the District of Arizona.

[Endorsed]: Filed June 16, 1949.

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In the United States District Court  
for the District of Arizona

MINUTE ENTRY OF MONDAY,  
NOVEMBER 21, 1949

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

This case comes on regularly for arraignment this day. The defendants are all present in person with their counsel George T. Wilson and are now duly arraigned. The defendants waive the reading of the indictment and a copy thereof is handed to each of them. Each of the defendants pleads not guilty and said pleas are now duly entered.

It Is Ordered that this case be and it is set for trial Wednesday, December 28, 1949 at 10:00 o'clock a.m.

In the United States District Court  
for the District of Arizona

MINUTE ENTRY OF MONDAY,  
DECEMBER 19, 1949

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

Motion of Defendant Ray C. Leyvas to Suppress the Use of Evidence comes on regularly for hearing this date. Frank E. Flynn, Esquire, United States Attorney and E. R. Thurman, Esquire, Assistant United States Attorney appear for the Government George T. Wilson, Esquire, appears for the defendant. On agreement of counsel

It Is Ordered that the record show that said Motion to Suppress the use of Evidence is submitted without argument and taken under advisement.

Defendants Arturo C. Leyvas, Connie Duarte, Arturo M. Jerez and Joe Martinez, are present in person with their counsel, George T. Wilson, and each of said defendants now withdraws his plea of not guilty, heretofore entered, and pleads guilty as charged in the indictment, which pleas are now duly entered.

It Is Ordered that this case be and it is set for sentence as to each of said defendants Monday, January 9, 1950, at 10:00 o'clock a.m., and that this case be referred to probation officer for report.

On motion of George T. Wilson, Esquire, and E. R. Thurman, Esquire, consenting thereto,

It Is Ordered that the order setting this case for trial December 28, 1949, be and it is vacated as to defendants Ray C. Leyvas and Arnold Enriquez, and that this case be and it is set for trial April 26, 1950, at 10:00 o'clock a.m., as to said defendants.

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In the United States District Court  
for the District of Arizona

MINUTE ENTRY OF WEDNESDAY,  
APRIL 26, 1950

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

This case comes on regularly for trial this date as to the defendants Ray C. Leyvas and Arnold Enriquez. E. R. Thurman, Esquire, Assistant United States Attorney appears for the Government.

The defendant, Ray C. Leyvas, is present in person with his counsel, George T. Wilson, Esquire, and moves for leave to withdraw his plea of not guilty to count 77 of the indictment and enter a plea of guilty thereto, It Is Ordered that said motion be granted and that a plea of guilty as charged in count 77 of the indictment be and it is accepted and entered as to said defendant Ray C. Leyvas, and that this case be set for sentence Monday, May 15, 1950, at 10:00 o'clock a.m., as to said defendant.



The defendant, Arnold Enriquez, is present in person with his counsel, Paul Primock, Esquire.

Both sides announce ready for trial.

A lawful jury of twelve persons is now duly empaneled and sworn to try this case.

It Is Ordered that all Jurors not empaneled in the trial of this case be excused until further order.

Government's Case:

The following Government's witnesses are now sworn and examined:

Redvers G. Nicholson, Viron A. Elkins.

Thereupon, at twelve o'clock noon, It Is Ordered that the further trial of this case be continued to 1:30 o'clock p.m., this date, to which time the Jury, being first duly admonished by the court, the defendant and counsel are excused.

Subsequently at 1:30 o'clock p.m., the Jury and all members thereof, the defendant and all counsel are present pursuant to recess, and further proceedings of trial are had as follows:

Government's Case Continued:

Robert W. Lorenz is now sworn and examined on behalf of the Government.

Government's Exhibit 28, photostat copy of car title and certificate of registration, is now admitted in evidence.

Okla W. Johnson is now sworn and examined on behalf of the Government.

And, thereupon, at 4:45 o'clock p.m., It Is Ordered that the further trial of this case be continued until April 27, 1950, at 10:00 o'clock a.m., to which time the Jury, being first duly admonished by the Court, the defendant and counsel are excused.



In the United States District Court  
for the District of Arizona

MINUTE ENTRY OF THURSDAY,  
APRIL 27, 1950

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

The Jury and all members thereof, the defendant and all counsel are present pursuant to recess and further proceedings of trial are had as follows:

Government's Case Continued:

Okla W. Johnson, heretofore sworn, is now recalled and further examined on behalf of the Government.

Mike Sandoval is now sworn and examined on behalf of the Government.

Viron Elkins, heretofore sworn, is now recalled and further examined on behalf of the Government.

The following Government's witnesses are now sworn and examined:

Frank W. Colbert, Earl A. Smith.

And, thereupon, at twelve o'clock noon, It Is Ordered that the further trial of this case be continued to 2:00 o'clock p.m., this date, to which time the Jury, being first duly admonished by the Court, the defendant and counsel are excused.

Subsequently at 2:00 o'clock p.m., the Jury and all members thereof, the defendant and all counsel are present pursuant to recess, and further proceedings of trial are had as follows:

## Government's Case Continued:

Earl A. Smith, heretofore sworn, is now recalled and further examined on behalf of the Government.

Government's Exhibit 29, Judgment in Case No. C-10038 Tucson, against Arnold Enriquez, is now admitted in evidence.

Redvers G. Nicholson, heretofore sworn, is now recalled and further examined on behalf of the Government.

Jesse J. Harris is now sworn and examined on behalf of the Government.

The following Government's exhibits are now admitted in evidence:

1. Envelope containing prepared smoking opium.
2. Envelope containing prepared smoking opium.
4. Envelope containing prepared smoking opium.
5. Envelope containing prepared smoking opium.
6. Envelope containing prepared smoking opium.
7. Envelope containing prepared smoking opium.
8. Envelope containing prepared smoking opium.
9. Envelope containing morphine hydrochloride.
10. Envelope containing prepared smoking opium.
11. Envelope containing heroin hydrochloride.
12. Envelope containing prepared smoking opium and heroin hydrochloride.
13. Envelope containing heroin hydrochloride.
14. Envelope containing heroin hydrochloride.
15. Envelope containing heroin hydrochloride and morphine hydrochloride.
17. Envelope containing morphine hydrochloride and prepared smoking opium.
18. Envelope containing prepared smoking opium.

19. Envelope containing prepared smoking opium.
20. Envelope containing prepared smoking opium.
21. Envelope containing prepared smoking opium.
22. Envelope containing prepared smoking opium.
23. Envelope containing prepared smoking opium.
24. Envelope containing prepared smoking opium.
25. Envelope containing heroin hydrochloride.
26. Envelope containing marihuana.
27. Envelope containing smoking opium and yen shee.

Whereupon, the Government rests.

The Jury is now duly admonished by the Court and excluded from the court room at 2:30 o'clock p.m.

Counsel for defendant now moves for judgment of acquittal as to Counts 52, 53, 54, 64, 65, 66, 67, 68, 69 and 78 on account of insufficient evidence, and argues said motion to the Court.

It Is Ordered that said motion for judgment of acquittal be and it is granted as to Counts 52, 53, 54, 64, 65, 66, 67, 68 and 69, and denied as to said Count 78.

The Jury return in a body into open Court at 2:35 o'clock p.m., and further proceedings of trial had as follows:

Defendant's Case:

Arnold Enriquez is now sworn and examined in his own behalf.

Ed Marshall is now sworn and examined on behalf of the defendant.

And the defendant rests.

Both sides rest.

And, thereupon, at 3:50 o'clock p.m., It Is Ordered that the further trial of this case be continued until April 28, 1950, at 10:00 o'clock a.m., to which time the Jury, being first duly admonished by the Court, the defendant and counsel are excused.

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In the United States District Court  
for the District of Arizona

MINUTE ENTRY OF FRIDAY,  
APRIL 28, 1950

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

The Jury and all members thereof, the defendant and all counsel are present pursuant to recess, and further proceedings of trial are had as follows:

All evidence being in, the case is now argued by respective counsel to the jury.

Whereupon, the Court duly instructs the Jury and said Jury retires at 11:35 o'clock a.m., in charge of sworn bailiff to consider of their verdict.

At twelve o'clock noon, It Is Ordered that the Marshal provide noon meals for the Jury and their bailiffs during the deliberation of this case at the expense of the United States.

Subsequently at 6:10 o'clock p.m., It Is Ordered that the Marshal provide evening meals for said Jury and their bailiffs at the expense of the United States.

Subsequently, at 8:20 o'clock p.m., the defendant and all counsel being present, the Jury return in a body into open Court and request that portions of the testimony be read to them. On agreement of respective counsel, the reporter now reads portions of testimony of Government's Witness Okla W. Johnson, and of the defendant to the Jury, and said Jury retire at 8:27 o'clock p.m. in charge of their bailiff to further consider of their verdict.

Subsequently, at 10:25 o'clock p.m., the defendant and all counsel being present, the Jury return in a body into open Court and all members thereof being present, are asked if they have agreed upon a verdict. Whereupon, the Foreman reports that they have agreed and presents the following verdict, to wit:

“UNITED STATES OF AMERICA,

“Plaintiff,

“Against

“ARNOLD ENRIQUEZ,

“Defendant.

“No. C-8658 Phoenix

“VERDICT

“We, The Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find the defendant, Arnold Enriquez, Guilty, as charged in Count 78 of the Indictment.

“BEN C. STOKES,

“Foreman.”

The verdict is read as recorded and on motion of counsel for the defendant, It Is Ordered that the Jury be polled. Whereupon, each juror is called by name and is asked if this is his verdict and each of said jurors answers in the affirmative. The Jury is now discharged from the further consideration of this case and excused until May 2, 1950, at 10:00 o'clock p.m.

It is Ordered that this case be and it is set for judgment and sentence Monday, May 8, 1950, at 10:00 o'clock a.m., and that the defendant be committed to the custody of the Marshal and that his bond be exonerated.

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United States District Court,  
District of Arizona  
No. C-8658 Phoenix

UNITED STATES OF AMERICA,  
Plaintiff,  
Against

ARNOLD ENRIQUEZ,  
Defendant.

### VERDICT

We, The Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find the defendant, Arnold Enriquez, guilty, as charged in Count 78 of the Indictment.

/s/ BEN C. STOKES,  
Foreman.

[Endorsed]: Filed April 28, 1950.

[Title of District Court and Cause.]

## MOTION FOR JUDGMENT OF ACQUITTAL

Without waiving defendant's motion for new trial and expressly relying thereon, but in the alternative the defendant moves for judgment of acquittal previously made at the conclusion of the government's case and at the conclusion of all evidence for the following reasons:

1. That there was no evidence whatsoever to show that this defendant and the co-defendants entered into an agreement for the receiving, concealing, transportation and importation of narcotic drugs.

2. That there was no evidence whatsoever to show that this defendant and the co-defendants entered into an agreement to sell, distribute or give away certain quantities of narcotic drugs not in pursuance of written orders on forms issued by the Secretary of the Treasury.

Dated at Phoenix, Arizona, this 1st day of May, 1950.

/s/ PAUL H. PRIMOCK,  
Attorney for Defendant.

Receipt of Copy Acknowledged.

[Endorsed]: Filed May 1, 1950.



[Title of District Court and Cause.]

### MOTION FOR NEW TRIAL

Defendant moves the Court to grant him a new trial for the following reasons:

1. The Court erred in denying Motion for an Acquittal made at the conclusion of the government's evidence.

2. The Court erred in denying the defendant's Motion for Acquittal made at the conclusion of all evidence.

3. The verdict is contrary to the weight of the evidence.

4. The verdict is not supported by substantial evidence.

5. The Court erred in permitting the introduction into evidence over the objection of the defendant, Exhibits 1 and 2, 4 through 15, inclusive, and 17 through 29, inclusive.

6. The Court erred in admitting testimony of the witness Viron Elkins to which objections were made by the defendant.

7. The Court erred in admitting testimony of the witness Robert Lorenz to which objections were made by the defendant.

8. The Court erred in admitting testimony of the witness Okla. Johnson to which objections were made by the defendant.



9. The Court erred in admitting testimony of the witness Mike Sandoval to which objections were made by the defendant.

10. The Court erred in admitting testimony of the witness Frank Colbert to which objections were made by the defendant.

11. The Court erred in admitting testimony of the witness Earl Smith to which objections were made by the defendant.

12. The Court erred in admitting testimony of the witness Ed Marshall to which objections were made by the defendant.

Dated at Phoenix, Arizona, this 1st day of May, 1950.

/s/ PAUL H. PRIMOCK,  
Attorney for Defendant.

Receipt of Copy Acknowledged.

[Endorsed]: Filed May 1, 1950.

In the United States District Court  
for the District of Arizona

MINUTE ENTRY OF MONDAY,  
MAY 8, 1950

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

This case comes on regularly for judgment and sentence this date. E. R. Thurman, Esquire, Assistant United States Attorney, appears for the Government. The defendant, Arnold Enriquez, is present in person with his counsel, Paul Primock, Esquire. The defendant's Motion for New Trial is now argued by respective counsel and submitted to the Court, and

It is Ordered that this case be continued for judgment and sentence, and for ruling on said motion until Monday, May 15, 1950, at 10:00 o'clock a.m.

In the United States District Court for the  
District of Arizona

Minute Entry of Monday, May 15, 1950

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

This case comes on regularly for judgment and sentence this date. E. R. Thurman, Esquire, Assistant United States Attorney, appears for the Government. The defendant, Arnold Enriquez, is present in person with his counsel, Paul Primock, Esquire.

It Is Ordered that the defendant's Motion for New Trial and Motion for Judgment of Acquittal be and they are denied. The defendant is now asked by the Court whether he has anything to say why judgment should not be pronounced and no sufficient cause to the contrary being shown or appearing to the Court, the Court finds that no legal cause appears why judgment should not now be imposed and renders judgment as follows:

(Clerk's Note: To avoid duplication, copies of the Judgment and Commitment and Judgment of Acquittal which appear here on the minutes, are not included in this record, the same being exact copies of the signed originals thereof which follow.)

In the District Court of the United States  
for the District of Arizona

No. C-8658 Phoenix

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARNOLD ENRIQUEZ,

Defendant.

### JUDGMENT AND COMMITMENT

On this 15th day of May, 1950, came the attorney for the Government and the defendant appeared in person and by counsel.

It Is Adjudged that the defendant has been convicted upon his plea of not guilty and a verdict of guilty of the offense of violating Title 18, United States Code, Section 88 (1946 Ed.) and Title 18, United States Code, Section 371 (Conspiracy to violate 21 United States Code, Section 174 and Title 26 United States Code, Section 2554 (a)), as charged in count 78 in the Indictment.

The Court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court, It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his

authorized representative for imprisonment for a period of two (2) years.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Dated at Phoenix, Arizona, this 15th day of May, 1950.

/s/ DAVE W. LING,

United States District Judge.

[Endorsed]: Filed and docketed May 15, 1950.

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In the District Court of the United States  
for the District of Arizona

No. C-8658 Phoenix

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARNOLD ENRIQUEZ,

Defendant.

JUDGMENT OF ACQUITTAL ON COUNTS 52,  
53, 54, 64, 65, 66, 67, 68 and 69.

Due proceedings having been had on the Indictment filed herein presented against the defendant above named charging a violation of Title 21, United States Code, Section 174, and Title 26,

United States Code, Section 2554(a), as charged in counts 52, 53, 54, 64, 65, 66, 67, 68 and 69, and said defendant's motion for judgment of acquittal having been granted as to said counts 52, 53, 54, 64, 65, 66, 67, 68 and 69,

It Is Adjudged that the defendant is acquitted of the charge aforesaid on said counts 52, 53, 54, 64, 65, 66, 67, 68 and 69 of the Indictment.

Dated at Phoenix, Arizona, this 15th day of May, 1950.

/s/ DAVE W. LING,  
Judge.

[Endorsed]: Filed and docketed May 15, 1950.

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In the United States District Court  
for the District of Arizona

Minute Entry of Monday, May 15, 1950

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

Paul Primock, Esquire, counsel for the defendant now moves for an order fixing bail pending an appeal and files Motion for Order Fixing Bail Pending Appeal, and Notice of Appeal, and

It Is Ordered that said Motion for Order Fixing Bail Pending Appeal be and it is denied.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Name and Address of Appellant: Arnold Enriquez, 2022 East Moreland Street, Phoenix, Arizona.

Name and Address of Appellant's Attorney: Paul H. Primock, 507 Title and Trust Building, Phoenix, Arizona.

Offense: Violation 18 U.S.C.A. 88 (1946 Ed.) and 18 U.S.C.A. 371.

Date of Judgment and Sentence: May 15, 1950.

Brief Description of Judgment and Sentence: Found guilty as charged in Count 78 of the indictment and sentenced to Two (2) years imprisonment in a Penitentiary to be designated by the Attorney General.

Defendant now in the custody of the United States Marshal, confined in the Maricopa County jail, Phoenix, Arizona.

I, the above-named appellant, hereby appeal to the United States Court of Appeals for the Ninth Circuit from the above stated judgment.

Dated this 15th day of May, 1950.

/s/ ARNOLD ENRIQUEZ,  
Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed May 15, 1950.



[Title of District Court and Cause.]

ELECTION NOT TO COMMENCE  
SERVING SENTENCE

Pursuant to Rule 38 (a) 2, Federal Rules of Criminal Procedure, notice is hereby given by the defendant, Arnold Enriquez, that he elects not to commence serving his sentence imposed by the Court in the above-entitled and numbered action pending his appeal to the United States Court of Appeals for the Ninth Circuit.

Dated at Phoenix, Arizona, this 15th day of May, 1950.

/s/ ARNOLD ENRIQUEZ,  
Defendant.

/s/ PAUL H. PRIMOCK,  
Atty. for Defendant.

Receipt of copy acknowledged.

[Endorsed]: Filed May 15, 1950.

At a Stated Term, to wit: The October Term 1949, of the United States Court of Appeals for the Ninth Circuit, held in the Court Room thereof, in the City and County of San Francisco, in the State of California, on Monday, the twenty-second day of May, in the year of our Lord one thousand nine hundred and fifty.

Present: Honorable John Biggs, Jr., Chief Judge  
(Third Circuit) Presiding.\*

Honorable Albert Lee Stephens, Circuit  
Judge.

[Title of Cause.]

ORDER GRANTING MOTION FOR ADMIS-  
SION TO BAIL PENDING APPEAL

Ordered motion of appellant for admission to bail pending appeal presented by Mr. Paul H. Primock, counsel for appellant and—there being no personal appearance in open court on behalf of appellee—submitted on behalf of appellee on typewritten response heretofore filed, and submitted to the Court for consideration and decision.

Upon consideration thereof, It Is Ordered that said motion be, and hereby is granted, and that appellant be admitted to bail pending disposition of the appeal herein in the amount of \$10,000.00, upon the posting of a good and sufficient surety bond, conditioned as required by law, to be approved by the United States Attorney and District Judge and to be filed with the Clerk of the District Court.

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\*Sitting by special designation.

I Hereby Certify that the foregoing is a full, true, and correct copy of an original Order made and entered in the within-entitled cause.

Attest my hand and the seal of the United States Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 22nd day of May, 1950.

PAUL P. O'BRIEN,  
Clerk.

[Seal] By /s/ FRANK H. SCHMID,  
Deputy Clerk, U. S. Court of Appeals for the Ninth  
Circuit.

[Endorsed]: Filed May 24, 1950.

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In the United States District Court  
for the District of Arizona

Minute Entry of Wednesday, May 24, 1950

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

It Is Ordered that the Bail Bond Pending Appeal, of defendant Arnold Enriquez, in the sum of \$10,000, with the United States Fidelity and Guaranty Company as surety thereon, be and it is approved and that said bond be filed herein.

In the United States District Court  
for the District of Arizona

Minute Entry of Monday, May 29, 1950

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

On motion of Paul Primock, Esquire, counsel for  
the defendant,

It Is Ordered that the time of the defendant,  
Arnold Enriquez, within which to file the record on  
appeal herein and docket the proceeding in the  
United States Court of Appeals for the Ninth Cir-  
cuit, be and it is extended for a period of 60 days.

In the District Court of the United States  
for the District of Arizona

C-8658 Phoenix

REPORTER'S TRANSCRIPT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAY C. LEYVAS, ARNOLD ENRIQUEZ, et al.,  
Defendants.

Appearances:

For the Government:

MR. FRANK E. FLYNN,  
United States Attorney.

MR. E. R. THURMAN,  
Assistant United States Attorney.

For the Defendants:

MR. GEORGE WILSON,  
For the defendant Leyvas.

MR. PAUL PRIMOCK,  
For the defendant Enriquez.

April 26, 1950.

The above-entitled and numbered cause came on duly and regularly to be heard before the Honorable Dave W. Ling, Judge of the above-entitled court, presiding with a jury, commencing at the hour of 10 o'clock a.m. on the 26th day of April, 1950.

The plaintiff was represented by Messrs. Frank E. Flynn, United States Attorney, and E. R. Thurman, Assistant.

The defendant, Ray C. Leyvas, was represented by George Wilson, Esq.; the defendant, Arnold Enriquez was present and represented by Paul Primock, Esq.

The following proceedings were had:

The Clerk: C-8658, Phoenix, United States of America, plaintiff, vs. Ray C. Leyvas and Arnold Enriquez, defendants for trial.

Mr. Thurman: The Government is ready.

Mr. Primock: The defendant, Enriquez, is ready, your Honor.

Mr. Wilson: If the court please, at this time the defendant, Ray C. Leyvas, asks permission of the court for the privilege of withdrawing his plea of not guilty heretofore entered as to count 77 in the indictment.

Mr. Thurman: Page 15 of the indictment, your Honor.

The Court: He wants to plead guilty to count 77?

Mr. Wilson: And to enter a plea of guilty, is that your wish?

Mr. Leyvas: Yes.

The Court: All right.

Mr. Wilson: Now, if it please the court in connection with this plea, Mr. Leyvas is the father of a little girl who is afflicted with Infantile Paralysis. Today was fixed by the Children's Home to operate on the little girl. We had it postponed and they are going to notify us when the operating room will be available. It may be later in the week or it may be next week, but we would like to, with the permission of the court, remain on our bond until such time [2\*] as the court fixes for the imposition of sentence, if that is consistent with the court's idea.

The Court: Well, the court will impose sentence in this case on May 15, at 10 o'clock. That should give you plenty of time.

Mr. Wilson: Yes, thank you, your Honor.

The Court: All right, call the names of 28 jurors.

(Whereupon 28 prospective jurors were called, examined on their voir dire, after which 12 jurors were selected and duly sworn to preside during the trial of this cause.)

The Court: Do you want to make an opening statement?

Mr. Thurman: I believe not, your Honor, I believe the case will be developed sufficiently.

The Court: All right, call your first witness.

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\* Page numbering appearing at top of page of original Reporter's Transcript.



Mr. Thurman: Mr. Nicholson.

REDVERS G. NICHOLSON

was called as a witness on behalf of the Government, and being first duly sworn testified as follows:

Direct Examination

By Mr. Thurman: [3]

Q. Please state your name?

A. Redvers G. Nicholson.

Q. Mr. Nicholson, where do you live?

A. Glendale, California.

Q. Do you hold a position with the Federal Government of the United States?

A. Yes, I do. Chemist at the United States Customs Laboratory.

Q. And where is that laboratory situated?

A. In Los Angeles, California.

Q. How long have you been such chemist?

A. 12 years.

Q. And where have you spent most of that 12 years in your activities?

A. I beg your pardon, I must have misunderstood your question. 12 years at the Customs Laboratory.

Q. In Los Angeles? A. Yes, sir.

Q. Just what are your duties there?

A. My duties are to analyze the materials sent in by the Customs and by the Bureau of Narcotics.

Q. And just how is that handled by the laboratory?

A. Well, in regard to narcotics samples, [4] samples are sent in to us by registered mail; the samples are received; the outer envelope opened up, contents noted from the interior sealed envelope; the interior sealed envelope is placed in the vault with the seals intact until such time as it is analyzed, then analyzed, re-sealed and placed back in the vault until such time as we are requested to bring it into court as evidence.

Q. Under whose care and custody are the samples—are they under while they are in the vault there at the laboratory in Los Angeles, California?

A. They are under the custody of the Chief Chemist.

Q. Now, did you make any analyses of these particular exhibits that are sent to you?

A. Yes, sir.

Q. And have you testified in Federal court many times before today.

A. Yes, sir.

Q. And in this court have you ever qualified and testified?

A. Yes, sir.

Q. Now, you were subpoenaed to bring here today certain exhibits, and have you done that?

A. Yes, sir. [5]

Q. And have you them with you at this time?

A. Yes; I have them here. (Producing package.)

Q. This "United States Customs Laboratory, Los Angeles, California," that is a card on the top. Who put that on there?

A. Yes, sir; I put that on there.

Q. You did?           A. Yes, sir.

Q. Now, who put these seals on here at the top of this box?           A. I did.

Mr. Thurman: I ask that the exhibits here be marked from 1 to 27 for identification.

(Thereupon the articles were received and marked as Government's Exhibits 1 to 27 for identification.)

Mr. Thurman: Are these particular exhibits here marked 1 to 27, Government's, for identification, you are familiar with the exhibits are you, Mr. Nichols?           A. Yes, sir.

Q. And can you tell the court and jury if they were ever received at the laboratory in Los Angeles, California? [6]

A. Yes, sir; they were received——

Mr. Primock: (Interrupting.) Just a moment. I'd like to object to the questions concerning that 22, that is, unless counsel for the government makes an avowal that he is tying Mr. Enriquez up with that. Obviously, there are more Exhibits than there are counts against this defendant and they can't all be brought against him.

Mr. Thurman: There is a conspiracy count here, your Honor, and we expect to tie the defendant into the conspiracy, and as the court knows, all acts of conspirators is an act against each one of them provided it is during the term of the conspiracy and in furtherance thereof, and that is the theory. We have not offered them, of course, but we cer-

tainly have the right to identify them at this time.

The Court: All right.

Mr. Thurman: You say they were received?

A. Yes, sir.

Q. And from whom were they received?

A. From Mr. Earl Smith and Mr. Robert Lorenz of the Bureau of Narcotics, Phoenix, Arizona.

Q. Are you personally acquainted with Mr. Lorenz and Mr. Earl Smith? [7] A. Yes, sir.

Q. Now, have they in the past sent to the laboratory similar exhibits for analysis by you and the other members of the laboratory for analysis?

A. Yes, sir.

Mr. Primock: I object to that, what they have done in the past has no bearing in the case.

Mr. Thurman: Withdraw it.

The Court: All right.

Mr. Thurman: And when these samples were received, how could you tell where they came from?

A. Because it is on the outside of the envelope here, and also there is, in each envelope, an interior envelope which has information written on it.

Mr. Primock: I object to that, your Honor, on the ground that it is hearsay and move that it be stricken.

The Court: The writing still on there?

Mr. Thurman: It is still on there.

The Court: All right, go ahead.

Mr. Thurman: After those exhibits were received, what did you do personally with them?

A. When they were turned over to me by Mr.

(Testimony of Redvers G. Nicholson.)

Custer for analysis, I analyzed them and then after the analysis I placed my seals on them that are on them now and placed them back in the vault.

Q. And you removed them from the vault under the direction of the subpoena issued out of this court?      A. I did.

Q. After you removed them from the vault—that was in Los Angeles?      A. Yes, sir.

Q. What did you do with them then?

A. I placed them in this box that we just opened up, tied them with a string, sealed it and brought them into this court.

Q. Are these particular exhibits practically in the same condition now as they were at the time that you received them by registered mail from Mr. Earl Smith of the Narcotics Bureau here, at Phoenix, Arizona?

A. With two exceptions: One, we have had to take some material out for analysis; two, sitting in the vault over any period of time, it has been our experience that the samples containing moisture will dry out.

Q. Outside of that?

A. Outside of that they are identical as has [9] been received.

Q. Now, referring to Exhibit 1 for identification, I will ask you to examine it and tell us whether or not you made an analysis of that particular exhibit?      A. Yes, sir; I analyzed this.

Q. And what did you find the contents to contain?      A. Prepared smoking opium.

(Testimony of Redvers G. Nicholson.)

Mr. Primock: I object to that, your Honor, the proper foundation has not been laid.

The Court: Go ahead.

The Witness: Prepared smoking opium.

Mr. Thurman: Will you examine Government's Exhibit 2 for identification and tell the court and jury whether or not you made an analysis of the contents of that particular exhibit?

Mr. Primock: May it please the court, for the record I would like to object to this question being asked on each and every exhibit as counsel will do, and to save time, on the ground that no proper foundation has been laid and also there has been no tie-up yet between these exhibits and Mr. Enriquez.

The Court: All right, go ahead.

Mr. Thurman: Answer the question, please. [10]

The Witness: Yes, I analyzed these two jars and they both contained smoking opium.

Q. Examine Government's Exhibit 3 for identification and tell us whether or not you made an analysis of the contents of that envelope, that exhibit?

A. Yes, I examined the contents of this envelope, analyzed it and it contains prepared smoking opium.

Q. With respect to Government's Exhibit 4 for identification, will you examine that and tell us whether or not you made an analysis of the contents of that particular exhibit?



(Testimony of Redvers G. Nicholson.)

A. I analyzed these particular samples and they contained prepared smoking opium.

Q. And with respect to the same question as to Government's Exhibit 5 for identification?

A. I analyzed these and they contained prepared smoking opium.

Q. And with respect to Government's Exhibit 6 and 6-A, will you examine that and tell us whether or not you made an analysis of the contents of that particular exhibit, being Government's Exhibit 6 for identification?

A. Yes, I analyzed these samples and they contained prepared smoking opium. [11]

Q. And what, with respect to Government's Exhibit 7, for identification, did you make an analysis of the contents of that particular exhibit, and did you make a finding?

A. Yes, I analyzed those and it contains prepared smoking opium.

Q. With respect to Government's 8 for identification, will you examine that particular exhibit and tell us whether or not you made an analysis and what your findings were?

A. I analyzed this sample and it contains prepared smoking opium.

Q. Will you examine Government's 9 for identification and tell us whether or not you made an analysis of the contents of that exhibit?

A. Yes, I analyzed this exhibit and it contains impure morphine hydrochloride.

Q. Is that a narcotic drug?



(Testimony of Redvers G. Nicholson.)

A. Yes, a narcotic drug derived from opium.

Q. And is smoking opium a narcotic drug?

A. Definitely.

Q. Government's 10 for identification, will you examine that and tell us whether or not you made an analysis and what the final results of your analysis were?

A. I analyzed this sample and it contains [12] prepared smoking opium.

The Court: We will have our morning recess at this time. During the recess you will not discuss the case among yourselves nor permit anyone to discuss it with you, also avoid forming or expressing any opinion upon any subject connected with it. The court will stand at recess for five minutes.

(Whereupon a short recess was taken.)

After recess, all parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:

The Court: You may proceed.

Redvers G. Nicholson resumed the witness stand and testified further as follows:

Direct Examination

(Resumed)

By Mr. Thurman:

Q. Mr. Nichols, I hand you Government's 11 for identification and ask you to make an examination and tell us whether or not you analyzed it and what the findings were in that analyses?

(Testimony of Redvers G. Nicholson.)

A. This sample shows heroin hydrochloride, [13] a narcotic drug derived from opium.

Q. I hand you Government's Exhibit 12 for identification, an envelope which contains two packages. Will you examine the exhibit and tell us whether or not you analyzed the contents of both the small envelopes contained in the large envelopes, and what the findings were, if any?

A. On the one envelope which is marked Exhibit 13 on the original marking that is prepared smoking opium. Now, the same envelope which is marked 13, is heroin hydrochloride, a narcotic drug derived from opium, and in Exhibit 14, the original marking, it contains heroin hydrochloride, a narcotic drug derived from opium.

Q. I hand you Government's Exhibit 13 for identification and I will ask you to examine the exhibit and tell us whether or not you made an analysis of the contents of that exhibit?

A. I examined this exhibit and it contains heroin hydrochloride, a narcotic drug derived from opium.

Q. I hand you Government's Exhibit 14 for identification. I will ask you to examine that and tell us whether or not you made an analysis of the contents of the exhibit and what the findings of the exhibit were? [14]

A. I examined both of these exhibits and they both contained heroin hydrochloride, a narcotic drug.

Q. You say you made——

(Testimony of Redvers G. Nicholson.)

A. There is my original markings, Exhibit 15 and Exhibit 15-A.

Q. And contained a narcotic drug, did it?

A. Yes, contained narcotics.

Q. Handing you Government's Exhibit 15 for identification, I will ask you to examine it and tell us whether or not you made an analysis of the contents of the exhibit and what the findings were?

A. This exhibit contains two exhibits. I analyzed both of them, the original marking, Exhibit 16, contains morphine hydrochloride; the original marking 16-A, shows heroin hydrochloride. Both are narcotic drugs derived from opium.

Q. I will ask you to examine Government's Exhibit 17 for identification and I will ask you if you made an analysis of the contents of the exhibit and what the findings were?

A. I analyzed this sample and it contains two exhibits. One exhibit, 18, the original marking, was morphine hydrochloride, a narcotic drug derived from opium, and Exhibit 18-A, original [15] marking, contains prepared smoking opium.

Q. I hand you Government's Exhibit 18 for identification and I will ask you if you examined it and tell us whether or not you made an analysis of the contents of that exhibit?

A. I analyzed this exhibit and it contains prepared smoking opium.

Q. Handing you Government's 20 for identification, I will ask you to examine the exhibit and tell

(Testimony of Redvers G. Nicholson.)

us whether or not you made an analysis of the contents of that envelope?

A. I analyzed this exhibit and it contains prepared smoking opium.

Q. Handing you Government's Exhibit 21 for identification, I will ask you to examine the exhibit and tell us whether or not you made an analysis of the contents of the exhibit and what the findings of that analysis were?

A. A analyzed this exhibit and it contains prepared smoking opium.

Q. Handing you Government's Exhibit 24 for identification, I will ask you to examine it and tell the court and jury whether or not you analyzed the contents of that exhibit and if you did, what was the result of that analysis?

A. I analyzed this exhibit and it contains [16] prepared smoking opium.

Q. I will ask you to examine Government's Exhibit 25 for identification and tell us whether or not you analyzed the contents of the exhibit, and if so, what the findings of the analysis were?

A. I analyzed this exhibit and it contains heroin hydrochloride, a narcotic drug derived from opium.

Q. Does that have any trade name other than the technical name that you gave it?

A. No, we call it heroin hydrochloride.

Q. And it is a narcotic drug?

A. It is a narcotic drug derived from opium.

Q. Handing you Government's Exhibit 26 for identification, I will ask you to tell us whether or

(Testimony of Redvers G. Nicholson.)

not you made an analysis of the contents of that exhibit?

A. Yes, I put this string around it when I got through analyzing it.

Q. This paper you are tearing off, that is your work?

A. The paper is what it came mailed in and to keep the paper intact——

Q. (Interrupting.) You didn't destroy all of the paper?

A. I analyzed this paper and it contains 71 [17] marijuana cigarettes and approximately 232 grains of marijuana, loose marijuana.

Q. I hand you Government's Exhibit 27 for identification and I will ask you to examine the contents of the exhibit and tell us what your findings were, if any?

A. I analyzed this exhibit and it consists of two samples, one of prepared smoking opium, and the other is yen shee, or a residue from prepared smoking opium.

Q. Now, all of these samples, all of these exhibits that you have mentioned, they were handled in the ordinary and regular course of business in the handling of such matters at the laboratory at Los Angeles?

A. Yes, yes, went through our regular routine, yes.

Mr. Thurman: You may cross-examine.

(Testimony of Redvers G. Nicholson.)

Cross-Examination

By Mr. Primock:

Q. What is your first name, Mr. Nicholson?

A. Redvers.

Q. R-e-d-v-e-r-s?

A. R-e-d-v-e-r-s.

Q. Now, Mr. Nichols, I hand you Exhibit 1. [18]  
Can you tell me how many grains of opium that contains?

A. I shall have to refer to my records here because I could not keep that over a period of years.

Q. You didn't mark it down on each exhibit?

A. No, we don't mark it down on each exhibit. We only hand in a formal report, formally signed report in which it is marked down. We do not mark it down, we do not put any extraneous markings except the Lot number.

Q. All that those exhibits would show, then, is that it is smoking opium, without how many grains or ounces, is that correct?

A. On the package, as well as write down how many grains when they weighed it.

Q. Do you weigh them when you examine them? Do you weigh each exhibit when you examine them?

A. Yes, sir.

Q. And then you can tell exactly the weight of each exhibit?

A. I can give you the exact weight of each exhibit, yes, sir.



(Testimony of Redvers G. Nicholson.)

Q. But not checking with the exhibit, is that correct?

A. Yes, sir. In other words, we have our [19] records that we make, our report, a written report, a signed written report that is sent to the Bureau of Narcotics covering each and every exhibit when we get through analyzing, and the weight that we find is marked on that report. I have it here, if necessary, on my report cards.

Q. And who prepared that report?

A. It is prepared by Mr. Custer, Chief Chemist.

Q. You didn't prepare it at all?

A. I write on the cards and say what I find and he works along with me. Sometimes we both write on what we find and that goes into the report. This is done at the laboratory, and he directs the stenographer to write it up, not me.

Q. But the report you have in your hand was prepared by Mr. Custer and not by yourself?

A. Not prepared by me, but these are my cards, my work cards.

Q. Your work cards?

A. Yes, sir, these are the work cards.

Q. How many grains of morphine are there to an ounce?

A. How many grains of morphine to an ounce?

Q. Yes.

A. 437½. [20]

Q. 437½ grains for each ounce?

A. Yes, sir.

Q. Now, from your report can you tell me—the



(Testimony of Redvers G. Nicholson.)

report that you made out yourself, can you tell me how many grains of opium there was in Exhibit 1 that you just identified?

A. Well, if you will give me the exhibit so I can check the lot number and cross-checking—you see they are different numbers now than what was originally on the exhibit, that is why I mention that. On this exhibit that I have in my hands right now we received 160 grains.

Q. And that was weighed by you? A. Yes.

Q. You don't know of your own knowledge, do you, Mr. Nichols, where these exhibits came from?

A. Other than they were sent to us by Mr. Smith and Mr. Lorenz.

Q. All you know is they came through the mail with Mr. Smith's and Mr. Lorenz' name written on the package, isn't that correct?

A. With the receipt in duplicate which we have to sign showing we received this particular exhibit from whoever the man was that sent it in that sealed envelope.

Q. You don't know where they came from or how [21] they were picked up?

A. No, sir; that is not our——

Q. (Interrupting.) That is all.

Mr. Thurman: That is all.

(The witness was excused.)

Mr. Thurman: Viron A. Elkins.

## VIRON A. ELKINS

was called as a witness on behalf of the Government, and being first duly sworn testified as follows:

## Direct Examination

By Mr. Thurman:

Q. Please state your name.

A. Viron A. Elkins.

Q. And, Mr. Elkins, where do you live?

A. Tempe.

Q. And, how long have you lived in Tempe, Arizona, Mr. Elkins?      A. Seven years.

Q. Huh?      A. Seven years.

Q. Now, during that period of time did you become acquainted with one, Arturo C. Leyvas?

A. Yes, sir.

Q. Did you know a man by the name of, this defendant here, Arnold Enriquez?      A. No.

Q. Did you ever meet Arnold Enriquez?

A. No.

Q. Never did?      A. No.

Q. Do you know Ray C. Leyvas?      A. Yes.

Q. Do you know a woman by the name of Connie Duarte?      A. Yes, sir.

Q. Do you know a man by the name of Arturo E. Jerez?      A. Jerez?

Q. Yes.      A. Yes, I know him.

Q. Do you know him by any other name other than Jerez?

A. Yes, Colimo, is the name I know him by.

Q. Do you know another man by the name of

(Testimony of Viron A. Elkins.)

Joe Martinez?           A. No, I don't know him.

Q. When did you first meet Arturo C. Leyvas, Mr. Elkins?

A. I believe it was in November, '48, I believe.

Q. Is that the first time you met Arturo C. Leyvas, was in November, 1948?

A. Yes, sir; I believe that is right.

Q. With respect to Arturo E. Jerez, or Colimo, as you know him, when did you first meet that gentleman?           A. Colimo?

Q. Jerez—yes, Colimo?

A. Oh, I knew him for several years.

Q. Well, we will lay the premise with the year '48?

A. The latter part of January, I knew him, I had seen him.

Q. You saw him, and where did you see him?

A. He came to the office of the place where I worked in Tempe.

Q. Just where is that office in Tempe?

A. 611 Mill Avenue, real estate office.

Q. And what time of day was it that he came there?

A. Oh, in the morning, along—the best I can remember, along about ten or eleven o'clock.

Q. Was anyone with Jerez at that time?

A. I didn't see anyone. He was in a car and apparently alone, but I didn't go up to the car. [24]

Q. Did you see this car?           A. Yes, sir.

Q. Can you tell the court and jury what kind of car it was?

(Testimony of Viron A. Elkins.)

A. Well, it was a Cadillac sedan, green Cadillac sedan. I don't know the make or what year it was, it was one of these later models. I judge a '46.

Q. And what took place between you and Jerez there with respect to this case?

Mr. Primock: If the court please, I am going to object to that, first on the ground that is going to call for a hearsay answer: secondly, they are attempting to show an overt act and they have not proved a conspiracy as yet, and anything that this man can say was outside of the presence of the defendant, Enriquez, and they have not proved any conspiracy, so, therefore, it is inadmissible.

The Court: Go ahead.

The Witness: Will you read the question?

(The question was read by the reporter.)

The Witness: Why, he told me that he had some smoking opium for sale and wanted to know if I wanted to buy some, and I believe he quoted me a price, said it was \$300 a can, I could get it [25] for \$300 a can, and we talked there a little while and he said that there was—it might—I don't know whether——

Mr. Thurman (Interrupting): You go ahead and let the court decide whether it is admissible or not.

A. He said there is two other parties in with him on the stuff, Art Leyvas and Enriquez, or "Pirata," "Pirata," he told me, I guess that gentleman there (indicating the defendant), I don't know him. There is two fellas that were in with him on this stuff.

(Testimony of Viron A. Elkins.)

Q. Then what happened?

A. Well, I—we talked a little bit, and I told him, “Okay, I’d get in touch with him.” He told me I could find him at the Phoenix Mattress Factory, at 1501 East Adams any time I wanted any, or anybody else that wanted any of it, so he left then and came back to Phoenix, I presume, he left there anyway. I got in touch with Mr. Smith and told him what happened and he told me to try and buy off of him, so I did. I came over to the mattress factory the next day and “Pirata”—or, Colimo was there, working there apparently, anyhow, I honked my horn. He came out and I told him I wanted \$50.00 worth of smoking opium, so he [26] told me to go down by the street by East Adams school and wait for him, he would be down there in a few minutes. I did. He came down there, I’d say, in not over ten minutes and got in the car by the side of me and took out of his pocket a jar of opium and I gave him the \$50.

Q. Now, were you in your car or was Jerez in another car?

A. He came there in the mattress factory’s truck. I had been in my car. He got out of his car and got in my car. He was sitting there for just a second while he delivered this stuff.

Q. He was not in the Cadillac sedan where he delivered it?

A. Not that day, no, sir.

Q. Handing you Government’s Exhibit 1 for identification, I will ask you to examine it, Mr.

(Testimony of Viron A. Elkins.)

Elkins, and see if you can identify it; I will break these seals on here.

A. Yes, that is the jar of—initialed—I initialed the day, the next day after it was bought. It was bought, I guess it was the 16th. It was bought, initialed it the day it was bought and I turned it over to Mr. Lorenz.

Q. You gave it to Mr. Lorenz?

A. Yes, sir. [27]

Q. You identify this by that marking?

A. I do, yes, sir, this jar.

Mr. Primock: Do you offer that?

Mr. Thurman: No, not yet. Now, after this particular transaction that you mentioned, did you see Jerez again, or Colimo?

A. Yes, along the first part of July—well, I seen him along different times. He was over there on May 1st. I made a purchase in May, sometime, I am not sure of the date.

Mr. Primock: If the court please, I am still going to object to this line of examination, on the ground that they have not shown any conspiracy.

The Court: Well, they have to have an opportunity to do that. It cannot be proved by one witness, of course, that is obvious.

Mr. Thurman: Referring to the 27th day of February, 1948, did anything take place at that time with respect to this case?

A. Yes, yes. I recall a \$125.00 buy at that time. "Buy," I mean that much stuff.



(Testimony of Viron A. Elkins.)

Q. Tell us about that, or the facts leading up to it as near as you can at this time, Mr. Elkins.

A. Well, I came over and contacted Colimo at the mattress factory on East Adams, told him that I had a Druggist friend of mine that was visiting me there and he wanted to buy some stuff, \$100.00 worth, and he was supposed to come over the next day and deliver it. He never showed up, so then——

Q. (Interrupting): He was supposed to go where, and deliver it?

A. To my house, he was to deliver it to my house.

Q. And that is where?

A. About a mile and a half east of Tempe.

Q. I see. Proceed.

A. So he didn't show up that day, but he came the next day about, I think it was 11:30, anyhow it was during the day of the 28th, I believe, about that time, and he stopped the car and he said he didn't want to meet this druggist friend of mine, he wanted me to get in the car with him and go up the road and we went up there and he had this stuff under a tree. He turned around, got out, and got it and turned around and come back to the house, stopped in front there and I gave him the money and he gave me the opium.

Q. How much money did you give him?

A. \$125.00.

Q. And what did you get for the \$125.00?

A. Opium, smoking opium. [29]



(Testimony of Viron A. Elkins.)

Q. In what kind of a container was it at that time, if you remember?

A. It was in jars.

Q. How many jars?

A. Two jars, as I recollect, yes, sir.

Q. I hand you Government's Exhibit 2 for identification, and I will ask you to examine it, breaking the seals on it, on the package. Will you examine the contents of the exhibit and tell us whether or not you can identify it.

A. Yes, that is one of them.

Q. How can you tell?

A. Well, I initialed it, put the date on it, the date that the purchase was made.

Q. And what initials did you use?

A. VAE, and this is the same; this is the other one.

Q. You recognize that or identify it in the same manner?

A. Yes, sir.

Q. What about this green package that they were in?

A. Well, they was like that when he gave it to me and he picked it up out of some leaves, might have been a little dirt and some leaves on it. That is the way it was. [30]

Q. It was like this?

A. Yes, sir; that is as I remember it. It has been quite a while ago, but I am sure that is the way it was.

Q. Well, subsequent to this purchase you have

(Testimony of Viron A. Elkins.)

just told us about, this \$125.00 deal, what took place after that as far as you know from your own personal knowledge?

A. Well, as I said a while ago, I talked to Colimo off and on and I don't believe there was any purchase made, there could have been another one in May, I believe there was, I am not sure about that, but I do know in July that I went over—I came to Phoenix. In the meantime, Colimo had been over there again several times to see me, to tell me he had this or could get this or that, narcotics, I mean, here in Phoenix, but I never bought any more of that until first, along the first part of July or the middle of July, he came over there and told me he had some smoking opium, any amount that I wanted, and so I got in touch with Mr. Smith, and on July 22nd, I believe, I know that is the day that the purchase was made, and I think the days leading up to that was the 20th or the 21st, but anyway, that is the date the exchange was made and it was five cans of opium. [31] I came over to Phoenix here and Colimo was in a little restaurant on East Washington right next to Pirata's Inn, a little Spanish restaurant there, and I came up and blew my horn and he come out and he got in the car with me and we drove up the street and turned around. I told him what I wanted, I wanted five cans of opium, and he told me he would deliver it over to my house, so I went back to Tovrea's where I think Mr. Smith was, or some of them was waiting there. Anyway, I went back there and I told them

(Testimony of Viron A. Elkins.)

that the arrangements was made and the time he was to come over there, so it was in the afternoon, I believe it was in the afternoon of the 22d, anyway, he come over there and drove into my yard in this same green Cadillac that he had contacted me before at the office, and he had five cans of smoking opium and we had agreed on the price, came to \$1,375.00, so I counted him out his money. I first told him I wanted to look at the stuff to see if it really was opium and I was not getting gypped.

Q. You knew opium, did you?

A. I smelled of it, yes, sir; so I looked at it and to the best of my knowledge I thought it was opium, so I paid him the money and took it [32] and turned it over to Mr. Lorenz and Smith.

Q. Now, you mention the cafe. Did you go into this cafe on the 22d day of July?

A. I will tell you, sir, it has been—I believe I did, I did; I believe I did go in there.

Q. What is the name of that inn or cafe?

A. I don't know, it is a Spanish restaurant. It is the only one there, a lady there I know. It may be the day, this day that I—he told me that any time that he wasn't there to tell one of those girls and they would get in touch with him.

Q. Just where was this cafe located, Mr. Elkins?

A. East, right next door to Pirata's Inn, the second door from 16th Street.

Q. You mean Pirata's Inn?

A. Yes, yes, that is it.

(Testimony of Viron A. Elkins.)

Q. What kind of a car, if any, was Arturo Jerez in on that day?

A. You mean, what car did he bring the stuff over in?

Q. Yes. A. A Cadillac.

Q. What color was it? A. Green. [33]

Q. Did you get the license number of that car?

A. No, sir; I didn't, the same car that he was in the first of the year when he came over there, first contacted me about this.

Q. Now, Mr. Elkins, when you got these five unlabeled cans of smoking opium from Jerez, after you paid him the money for it what did you do with it?

A. I turned it over to Lorenz, I think, or Earl—I don't know whether Mr. Smith was there or not, but Mr. Lorenz was, I know.

Mr. Thurman: Is Mr. Lorenz in the courtroom now?

(Thereupon Mr. Lorenz arose in the courtroom.)

Mr. Thurman: Is this the gentleman you mean when you say "Mr. Lorenz"?

A. That is right, yes, sir.

Q. Will you please examine this exhibit here and tell us whether or not those are the four cans of smoking opium that you purchased from Colimo, otherwise known as Jerez, on the 22d day of July, 1948, near Pirata's cafe in Phoenix, Arizona?

(Testimony of Viron A. Elkins.)

A. This stuff has run all over here so bad, I don't know, I can't even——

Q. (Interrupting): Where was that delivered, did you say?

A. In the yard at my house. This was supposed to be opium?

Q. I don't know, I don't know opium. I am not an expert. I just want to know if you can identify those cans.

A. I am going to tear something off here. (The witness has difficulty identifying the exhibit due to contents of can seeping through top.)

Q. (By Mr. Thurman): Go ahead, tear it off, that is what we have it here for the purpose of you making an examination. Prior to the time or at the time you gave this exhibit, the four cans, to Mr. Smith, did you put any markings on them?

A. Oh, yes, yes, every time.

Q. What did you mark, the end or the top?

A. Well, we marked the top of them, I think, I wouldn't say for sure, but I believe it was marked on the lid.

Q. Well, can you identify any one of them?

A. Should be all of them is the same, but this thing is messed up here to where you can't—this here, signed it, our initial on it.

Mr. Primock: I am going to object to the extemporaneous remarks by the witness. [35]

The Court: You talk too much.

The Witness: I never seen no such mess as that.

Mr. Thurman: Never mind.

(Testimony of Viron A. Elkins.)

A. This looks like the cans I had, but I can't see no marks, I can't identify nothing like that unless we could see the marks on them. From all indications, they are the ones, the cans and everything looks the same, unless it could be—we could strip them off, heat them or something, melt it off of them, why there is no way I or anybody else that could say that——

Q. (Interrupting): Never mind. Do you see these markings here? Are those scratchings, or what are they?

A. Well, that is just scratches there.

Mr. Primock: I can't hear your answer.

A. Just scratches, I said.

Mr. Thurman: What is this paper here? Anything on that that you can see?

Mr. Primock: I am going to object to the leading form of the question of counsel and I will also object to any other questions concerning these particular cans that the witness has already testified he can't identify.

The Court: Yes, I think it is just a waste [36] of time.

The Witness: Here is the paper back——

Mr. Primock (Interrupting): Just a moment.

The Court: Well, as far as the cans are concerned he can't find anything on those. See what you can find on the paper.

A. Here is a part of it. From all indications, this is my initials here, VAE. The E is not plain on there, but I believe that is my initials.



(Testimony of Viron A. Elkins.)

Mr. Primock: If the court please, I am going to object to this witness continuously mumbling something I can't hear. Ask him to only answer questions that are asked him by counsel.

The Court: He was asked one question.

A. I was just trying to find the initials on here.

Mr. Thurman: Do you find any place on this paper sack that was around those four tins where you wrote your initials on this sack?

A. I am trying to find it. There is a piece of paper which has got VA on it, I am pretty sure that is my initials.

Q. That was done where?

A. At my house before Mr. Lorenz left there, and Smith, whoever it was with him there that day. The lids, I am sure, were initialed. I can't find any markings on them. They are on there. It looks like the stuff. At the top is the——

Mr. Thurman: Never mind, that is all right. Now, in your direct examination I believe I interrupted you, I think you said something about May 1st, 1948.

A. Yes, sir; I did.

Q. What did you have reference to on that date, Mr. Elkins?

A. I don't remember that date.

Q. Mr. Elkins, I'd like to, for the purpose of refreshing your memory, show you Government's Exhibit 3 for identification and ask you if that does in any way refresh your memory?

Mr. Primock: I object to that, your Honor, trying to impeach his own witness.



(Testimony of Viron A. Elkins.)

The Court: Oh, I think he is trying to lead him, I don't think he is trying to impeach him.

Mr. Primock: I object on the ground it is leading.

The Court: Oh, go ahead, he has probably forgotten about that.

Mr. Thurman: In the examination of those [38] particular exhibits, do they in any way refresh your memory?

A. Well, that is my initials on them.

Q. I understand that, but I mean does that refresh your memory as to any transaction concerning them? A. No.

Mr. Thurman: You may cross-examine.

### Cross-Examination

By Mr. Primock:

Q. Mr. Elkins, how long have you known Earl Smith? A. Oh, about two years.

Q. How long have you known Lorenz?

A. About the same time.

Q. And are you employed by the United States Government? A. No, sir.

Q. Are you employed by Earl Smith or Bob Lorenz?

A. No—well, I don't know, just that I am not working on any salary, no.

Q. What are you working on, get paid so much per case? A. I was paid, yes. [39]

Q. How much did you get paid for each indi-

(Testimony of Viron A. Elkins.)

vidual case?           A. I don't know.

Mr. Thurman: I think that is immaterial how much. He can say he got paid.

The Court: He may answer.

Mr. Primock: What was your answer?

A. I say it depends I guess on the case. This is the only one I ever worked on.

Q. On this particular case here, how much did you get paid?

A. \$1,000.00, paid through the Border Patrol, I think.

Q. Now, Mr. Elkins, how do you happen to know the smell of opium?

A. How do I know the smell of it?

Q. Yes.           A. I just smelled it at times.

Q. Have you ever used opium?

A. Not in that form, no.

Q. Have you ever used opium in any form?

A. Well, under the care of a doctor is all.

Q. You are under the care of a doctor right now?

A. Yes.

Q. He prescribes opium for you? [40]

A. No.

Q. Does he prescribe narcotics in any form?

A. He does when I need it, I guess.

Q. Have you ever used narcotics prior to this time?

Mr. Thurman: I don't think that is material.

Mr. Primock: I think it is, your Honor. He says he knows opium by the smell of it.

The Court: Well, confine it to opium, then.

(Testimony of Viron A. Elkins.)

Mr. Primock: How many times have you handled opium? A. Never handled it at all.

Q. Never handled it at all?

A. I smelled it.

Q. How many times have you smelled opium?

A. Oh, once or twice, I am not an expert at it.

Q. I believe you stated that all of your transactions were held with Arturo Jerez, or Colimo, as he is called, is that correct?

A. All the transactions I had?

Q. On the purchase of all this opium that you smelled and identified here, that was all done with Colimo, was it not? A. That is right.

Q. And how long have you known Colimo before [41] you had the first transaction with him?

A. I don't know. I knew—just knew him when I seen him for several years.

Q. And this morning of January, 1948, when he came to your office in Tempe, was that the first transaction you ever had with him?

A. It was, yes, sir.

Q. That was the first time you ever discussed opium or narcotics with him?

A. I talked to him once or twice about it.

Q. Had you ever asked him to purchase opium before January, 1948?

A. Did I ever ask him?

Q. Did you ever ask him if you could purchase opium or narcotics prior to January, 1948, when he came to your office in Tempe?

A. I don't remember if I did.

(Testimony of Viron A. Elkins.)

Q. But you did ask him on this particular day in January?

A. No, I didn't ask him. He came and asked me.

Q. Oh, he came and asked you if you wanted to buy some opium? A. Yes.

Q. Did he give you any reason why he was asking you to buy? [42]

A. He was trying to peddle it, I guess, that is all I know.

Q. Didn't he give you any reason why; didn't he tell you any reason?

A. No, not that I remember.

Q. Just out of the clear sky, he walked into your office and said, "I want to sell you some opium"?

A. I guess you might call it that, yes. I knew Colimo before that—

Q. (Interrupting): Just a moment. Just answer my question. Then you saw him again on the 27th day of February, 1948, is that correct?

A. No, I seen him on the 15th of February.

Q. Well, you had another transaction with him on the 27th day of February, 1948?

A. I don't know what you mean.

Q. Well, you purchased some more opium or narcotics from him on the 27th of February, 1948, didn't you?

A. On the 16th I made a purchase.

Q. On the 16th of February? A. Yes.

Q. You didn't make one on the 27th?

A. Yes, I did, I identified one of these.

(Testimony of Viron A. Elkins.)

Q. Well, I am talking about the 27th day of [43] February. A. Well, I made a purchase.

Q. You are sure it was the 27th day of February?

A. Well, I am not sure—well, I believe it was, yes, sir.

Q. Is there anything that recalls to your mind, any particular thing which would place—would make you place it on the 27th day of February, 1948?

A. Well, he was over there along the latter part of February and I know the next transaction taken place with him was, well, yes, that was bought on the 27th or 28th of February.

Q. What is there around the circumstances that makes you place it on the 27th day of February?

A. The reason I remember it, I—this man—this transaction, I remember, I can't say for sure on that, I might be wrong, but——

Q. On July 22d, 1948, you are sure of that date?

A. Yes, sir.

Q. What makes you so sure that it happened on the 22d of July, 1948?

A. Well, because it built up to it and that [44] date was in our mind.

Q. Do you remember what day of the week July 22d was? A. A large purchase.

Q. Do you remember what day of the week July 22d was?

A. No, I don't remember what day of the week it was.

(Testimony of Viron A. Elkins.)

Q. Where did you get this money that you gave to Colimo for the purchase of those narcotics?

A. From the narcotic officers.

Q. Mr. Smith? A. Yes, sir.

Q. Now, when is the last time you discussed this case with Mr. Smith?

A. For this trial, you mean?

Q. Yes. A. Oh, a week or so ago.

Q. And who else was present at that time?

A. Just he and I.

Mr. Thurman: I don't think that is material, two days before the trial.

The Court: Well, there wasn't anybody else there.

Mr. Primock: I believe that is all.

Mr. Thurman: Your Honor, on account of the method of trial, I may have to recall this witness, your Honor, but he is excused for the present.

The Court: All right.

(The witness was excused.)

The Court: All right, we will suspend now until 1:30. Keep in mind the court's admonition and be in your places at 1:30.

(Thereupon a recess was taken at 12 o'clock noon.)

1:30 o'clock p.m. of the same day, all parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:

The Court: You may call your next witness.

Mr. Thurman: Mr. Lorenz.

ROBERT W. LORENZ

was called as a witness on behalf of the Government,  
and being first duly sworn, testified as follows:

Direct Examination

By Mr. Thurman:

Q. Please state your name.

A. Robert W. Lorenz.

Q. Mr. Lorenz, where do you live? [46]

A. Phoenix, Arizona.

Q. How long have you lived here?

A. Approximately three years.

Q. During the particular three years that you  
lived here in Phoenix, Arizona, have you held an  
official position with the Federal Government?

A. I have.

Q. In what capacity?

A. Federal Narcotic Agent.

Q. Now, just what are your duties and responsi-  
bilities as such officer, Mr. Lorenz?

A. To investigate, prevent narcotics from being  
sold in the United States.

Q. By "narcotics," what do you mean generally  
by that term, "narcotics"?

A. Opium or any of its derivatives.

Q. Now, under whose immediate supervision, if  
any, do you work? A. Earl A. Smith.

Q. That is the gentleman who sits here to my  
right? A. Yes, sir.



(Testimony of Robert W. Lorenz.)

Q. Now, during the period here in Phoenix, Arizona, have you had occasion to make an investigation in the case of the United States of America vs. Arturo C. Leyvas, Arnold Enriquez, [47] Ray C. Leyvas, Connie Duarte, Arturo E. Jerez and Joe Martinez?      A. Yes, sir.

Q. And did you become acquainted with each one of those persons whose names I have just read off to you?      A. Yes, sir.

Q. And when did you first start your investigation in this case, if you remember?

A. In the early part of '48.

Q. In the early part of '48?      A. Yes, sir.

Q. Did you become acquainted with a gentleman by the name of Viron A. Elkins, who testified here this morning?      A. Yes, sir.

Q. And when did you first meet up with Mr. Elkins?      A. At about the same day.

Q. And did you ever discuss with this man Elkins any of the facts in this case?

Mr. Primock: I object to that as no proper foundation having been laid.

Mr. Thurman: I withdraw the question. When did you first meet Arturo E. Jerez?

A. It was approximately the same time. [48]

Q. What time was that?

A. Beginning of 1948, in January, sometime.

Q. In January, 1948, and where was that meeting?

A. I had seen him on many occasions about town, here in Phoenix.

(Testimony of Robert W. Lorenz.)

Q. Did you ever see him in the vicinity of Tempe, Arizona?      A. Yes, sir.

Q. And about when?

A. About February 16th.

Q. About February 16th of what year?

A. '48.

Q. I see, and about what time of day was it?

A. Let's see, that day was not correct.

Q. Huh?

A. That day was not correct, but the first time I had seen him in the vicinity was July 22d.

Q. July 22d, '48?      A. Yes.

Q. Where did you see him?

A. I saw him at the residence of Mr. Elkins.

Q. And where is that residence?

A. It is east of Tempe, Arizona, about one and a half miles.

Q. When you speak of this man Elkins, you mean [49] this man that just preceded you on the witness stand?      A. Yes, sir.

Q. And who was there at the Elkins' place on the 22d of July, 1948, besides yourself and Elkins and Jerez?

A. Those were the only three persons.

Q. And where were you?

A. I was concealed in the barn of Mr. Elkins, approximately 30 feet from the defendant.

Q. And where was the defendant?

A. Parked in the Cadillac right in front of me.

Mr. Primock: Just a moment, may I ask a question on voir dire?

(Testimony of Robert W. Lorenz.)

The Court: Yes.

Mr. Primock: When you say the defendant, you mean Enriquez?

A. No, I meant Arturo Jerez, called Colimo.

Mr. Thurman: Where was Elkins at this time that you were parked in Elkins' barn about 30 feet from the defendant, Jerez, where was Elkins?

A. He was at the side of the car with Jerez.

Q. I see, and what sort of car was this?

A. It was a green Cadillac, '41, I believe, had Arizona license, 1948 Arizona license AN-2236. [50]

Q. Did you later find out who that car belonged to? A. Yes, sir.

Q. To whom? A. It was registered to——

Mr. Primock: I am going to object to that as not the best evidence.

Mr. Thurman: The best evidence is right here. Please mark this for identification.

The Court: To save time, show it to counsel.

Mr. Thurman: I want to mark it first.

The Court: All right.

(Thereupon the document was marked as Government's Exhibit 28 for identification.)

Mr. Thurman: I hand you a purported certificate of title (showing document to Mr. Primock). The Government now offers in evidence Government's Exhibit 28 for identification.

Mr. Primock: May I ask a few questions on voir dire, your Honor?

The Court: All right. I don't know what this witness would know about the certificate from the

(Testimony of Robert W. Lorenz.)

Highway Department. He wants to ask a few questions on voir dire.

Mr. Thurman: I object. I don't see the purpose of it, I object to it. [51]

The Court: I don't either. The objection is sustained.

Mr. Thurman: Any objection to the admissibility of the document? Your Honor, this is a certified copy of the Highway, Arizona State Highway Department, with respect to a motor vehicle.

Mr. Primock: I want to object to the registration as not being a certified copy, your Honor.

The Court: A registration card?

Mr. Primock: Yes, your Honor.

Mr. Thurman: It is a part of the record, I think.

The Court: It is attached to it. All right, it may be received.

(Thereupon, the document was received in evidence as Government's Exhibit 28.)



GOVERNMENT'S EXHIBIT NO. 28

# 1948 ARIZONA REGISTRATION CARD

MOTOR VEHICLE DIVISION - PHOENIX, ARIZONA

DATE ISSUED MAR 11, 1948 PLATE AB 2236  
 NAME OF OWNER ENRIQUEZ, ARNOLD S. TITLE 550834

ADDRESS 2022 E. MORELAND, PHX.  
 MAKE CADILLAC TYPE OF VEHICLE SEDAN ENGINE NUMBER 8381284  
 YEAR 1942 MODEL NUMBER 6269 SERIAL NUMBER 3000  
 UNLADEN WEIGHT OF AXLES EQUIP

FUEL USED \_\_\_\_\_ COUNTY MARICOPA

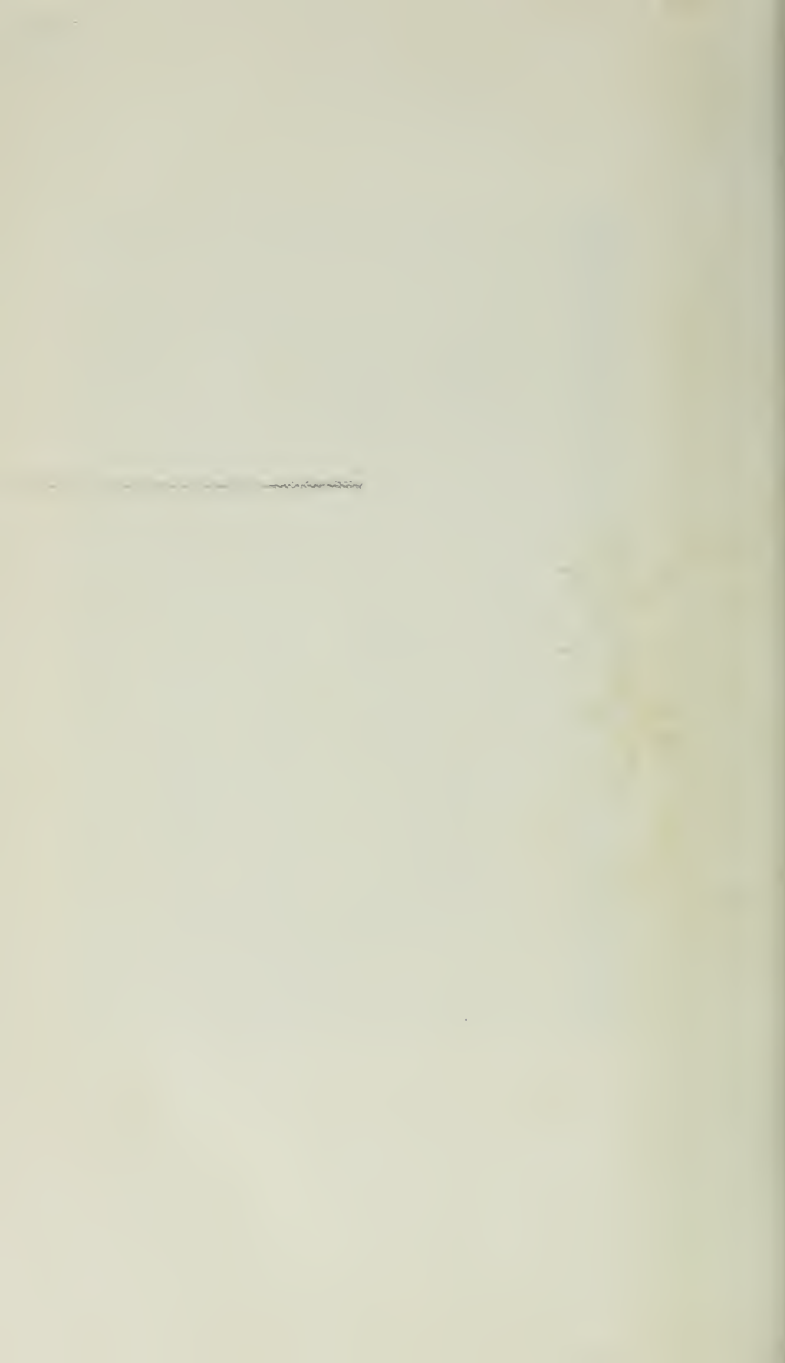
THIS CERTIFIES THE PERSON ABOVE NAMED HAS DULY REGISTERED IN THE STATE OF ARIZONA THE VEHICLE DESCRIBED HEREON. THIS CARD MUST BE CARRIED IN THE VEHICLE SUBJECT TO INSPECTION.

THIS COPY FOR MOTOR VEH. DIV.

**W E STANFORD** **TM**  
 COUNTY ASSESSOR

REGISTER FEE 7.00  
 PENALTY \_\_\_\_\_  
 WEIGHT FEE \_\_\_\_\_  
 LIEU TAXES 7.00  
 TOTAL \$ 14.00  
 LIEU TAX REC. NO. 23534 C

SIGNATURE OF OWNER \_\_\_\_\_  
 FORM 223-4708-60M-7-24-47





# ASSIGNMENT OF TITLE

To be filled in by seller and delivered with vehicle to the purchaser. Application for new Certificate of Title must be made and immediately forwarded to Division of Motor Vehicles, Phoenix, Arizona, with fee. FOR VALUE RECEIVED I (WE) HEREBY SELL AND ASSIGN TO (This day of 10

NAME OF PURCHASER Residence Address City State

the vehicle described on the reverse side of this Certificate and I (We) hereby warrant the title of the said vehicle to be free from all liens and encumbrances except as follows:

Amount of Lien, \$ 1138.72 Kind of Lien e Date 2/2/69  
(If no lien write word "none") (mortgage, note, conditional sale, etc.)

NAME OF LIENHOLDER Address City State

In favor of PACIFIC FINANCE LOANS 400 W. WASHINGTON, PHOENIX, ARIZONA

Amount of Lien, \$ Kind of Lien Date  
(If no lien write word "none") (mortgage, note, conditional sale, etc.)

NAME OF LIENHOLDER Address City State

In favor of

(SIGNATURE OF SELLER)

Subscribed and sworn to before me this day of 10

day of 10

## REASSIGNMENT BY DEALER

To be filled in by Arizona licensed dealer only, and then delivered with vehicle to the purchaser. FOR VALUE RECEIVED I (WE) HEREBY SELL AND ASSIGN TO (This day of 10

NAME OF PURCHASER Residence Address City State

the vehicle described on the reverse side of this Certificate and I (We) hereby warrant the title of the said vehicle to be free from all liens and encumbrances except as follows:

Amount of Lien, \$ Kind of Lien Date  
(If no lien write word "none") (mortgage, note, conditional sale, etc.)

NAME OF LIENHOLDER Address City State

In favor of

Amount of Lien, \$ Kind of Lien Date  
(If no lien write word "none") (mortgage, note, conditional sale, etc.)

NAME OF LIENHOLDER Address City State

In favor of

Dealer License No. By (Signature of Dealer)

By (Authorized Agent)

## APPLICATION FOR TITLE

I (We) hereby make application for Certificate of Title in my (our) name on vehicle described on reverse side of this Certificate and state under oath that the information given above is true and correct.

Dated this 10 day of Feb 1969

(Applicant's Signature)

(Residence) (City) (State)

Mail Title to:  
(Mail to Division of Motor Vehicles, Phoenix, Arizona, with fee of \$1.00 for Title and \$60 for transfer of registration card.)



STATE OF ARIZONA  
Division of Motor Vehicles  
ARIZONA STATE HIGHWAY DEPARTMENT

Certificate of Title

Application for a Certificate of Title to the vehicle described below has been filed with the Division of Motor Vehicles by the person named as owner as required by law.

OWNER ADDRESS	ENRIQUEZ, ARNOLD B 2022 E. MORELAND PHOENIX, ARIZONA	CL-550834 2-7-19	TITLE NUMBER DATE ISSUED
MAKE & TYPE MODEL & LIST UNLADEN WT. PRIOR REGIST. LHN HOLDER AMT. & DATE	CADILLAC SEDAN 1942 6269 ALA-REG-MAR-48 NONE	8584284 8584284 1942	ENGINE NUMBER SERIAL NUMBER AXLES & TIRES DATE FIRST SOLD ADDRESS KIND OF

ADDITIONAL FILED LENS

(Lien Holder)	(Address)	(Kind)	(Amount)
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The applicant has stated under oath that he is the owner of said vehicle and that it is subject to the above enumerated liens and no others and the facts stated in said application appear to be true.

IT IS HEREBY CERTIFIED that the above described vehicle has been registered in the office of the Division of Motor Vehicles and that the above registration number (title number) has been assigned to said vehicle and the owner thereof.

IN WITNESS WHEREOF the seal of the Division of Motor Vehicles of the State of Arizona is affixed on the date shown above.

NOT PREVIOUSLY  
REGISTERED

*[Signature]*

Vehicle Superintendent

By

*[Signature]*

(Keep in a safe place do not accept title showing transfer otherwise)



(Testimony of Robert W. Lorenz.)

I hereby certify that as Supervisor of Titles of the Motor Vehicle Division, Arizona State Highway Department, all documents pertaining to bonafide registration and certificates of ownership concerning motor vehicles, are under my direct supervision.

I further certify that 1948 Arizona License No. AN2236 covering a 1942 Cadillac sedan bearing motor #8384284, serial number same, was issued in the name of Arnold S. Enriquez of 2022 E. Moreland St., Phoenix, Arizona, and covered by title #550834. This vehicle was sold to Mr. Enriquez on April 22, 1947, by Arizona dealer, Clark Smith. The first title in the name of Arnold S. Enriquez was developed and issued April 25, 1947. Subsequent titles, in the form of duplicates, new liens, clearances, were issued in his name until date of 2-7-49 at which time final title was issued in his name. Vehicle subsequently sold by Arnold S. Enriquez to John E. Durand of 42 S. 1st St., Glendale, Arizona. Our records disclose ownership still vested in the name of John E. Durand as registered owner with legal owner the Pacific Finance Loans of Phoenix, lien in amount of \$1134.72 in form of chattel mortgage dated 2-9-49. Title in name of John E. Durand developed and issued 3-16-49.

[Seal]     /s/ WM. F. BOWDEN,  
Supervisor of Titles, Division of Motor Vehicles,  
Arizona Highway Department, Phoenix, Arizona.



(Testimony of Robert W. Lorenz.)

I Hereby Certify that I am the Superintendent of the Vehicle Div., Arizona State Highway Department and that Wm. F. Bowden, whose signature appears on the certificate attached hereto is a Supervisor of Titles, Division of Motor Vehicles, Arizona Highway Department, and that as such he has custody of all documents of the department pertaining to bonafide registration and certificates of ownership concerning motor vehicles.

In Witness Whereof, I hereto affix my signature and the seal of the Motor Vehicle Division, Arizona State Highway Department.

[Seal]     /s/ C. L. LANE,  
Superintendent, Division of Motor Vehicles, Arizona Highway Department.

[Endorsed]:   Admitted and Filed April 26, 1950.

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Mr. Thurman:   Let the record show that the exhibit is being handed to the jury.

Q.   Now, what took place that you saw there yourself?

A.   At about—on July 22nd, just shortly before noon, I saw this Cadillac turn into the driveway of Mr. Elkins' home. It pulled directly in front of where I was concealed in a barn. I was about 30 feet from there. He parked, and Arturo, a man known to me as Arturo Jerez was [52] driving, and Elkins came out of the house and talked to him.

Q.   Well, go ahead, tell us what happened.

(Testimony of Robert W. Lorenz.)

A. I saw a hand to hand transaction. I saw a package, a sack handed to Elkins, and I saw Elkins count out money and pay the man.

Q. And what did Elkins do with this package; describe the package to the Court and jury, Mr. Lorenz.

A. The package was a brown paper sack. It had an object that was fairly heavy in it and after the transaction was completed Arturo Jerez backed the Cadillac out of the driveway and appeared to be driving back towards Tempe. Elkins stood there in the yard right in front of me until the car was quite some distance away. At that time he came directly to me and I took possession of the evidence, and it was dated and initialed at that time.

Q. What was this evidence that he gave you; describe it.

A. It was prepared opium in cans. There was five cans in the brown paper sack.

Q. And what did you do with those five cans in the brown paper sack, if anything?

A. After they were properly dated and initialed by [53] both of us, they were kept in my possession until they were brought to our office, at which time Agent Smith and I examined it and sealed the evidence.

Q. And sealed it, and then what was done with this evidence after it was examined by you and Mr. Smith at the office here in Phoenix?

A. It was sealed and sent by registered mail to the chemist.



(Testimony of Robert W. Lorenz.)

Q. And is that the ordinary way of handling such matters in your department?

A. It is.

Q. I hand you Government's Exhibit 4 and ask you to examine this and see if you can identify it, Plaintiff's 4 for identification. Do you know whether or not those are the four cans that Mr. Elkins handed you in his yard there at the time it was delivered to him by Jerez?

A. Yes, sir; these are the four cans.

Q. Now, this label on the outside, was that prepared in your presence, or did you prepare it?

A. Yes, sir; in my presence.

Q. And who did it?           A. Agent Smith.

Q. Is there anything about this piece of paper here that you have any way of identifying it? [54]

A. Yes, sir. My initials and the date are on it.

Q. Where?           A. Right here (indicating).

Q. In what color ink?           A. Light blue ink.

Q. Do you know who these are?

A. Yes, sir, that is Mr. Smith, the agent in charge.

Q. When was this blue ink put on there?

A. At the time Viron Elkins handed me that package.

Q. Now, after this delivery that you mentioned here, the 22nd of July, 1948, what did you do after that; what was your next step?

A. After I took possession of the evidence I returned to Phoenix with several other agents, and

(Testimony of Robert W. Lorenz.)

in doing so we drove by the Phoenix Mattress Factory at 1501 East Adams Street.

Q. And do you know who operates that, of your own knowledge?      A. Yes, sir.

Q. Who?      A. Ray Leyvas.

Q. And he was one of the defendants in this case, was he? [55]      A. Yes, sir.

Q. All right. Go ahead.

A. At that time we noticed the same Cadillac with the Arizona license plates AN-2236 parked adjacent to the building. That was just a short period of time, we had allowed it enough time to get back.

Q. About how long would you say?

A. Oh, within 20 minutes.

Q. All right. You saw a Cadillac there then at the mattress factory. Then what did you do?

A. We took the evidence up to the office immediately.

Q. Now, what was the next—when were you again on this case subsequent to July 22, 1948?

A. On August 19th I was again in Tempe.

Q. Sir?      A. I was in Tempe.

Q. All right, tell us about it. Who was with you and at the time you were over there, and give us a detailed account of it.

A. I was again at this same place concealed in the barn. This time Agent — Customs Agent Street——

Q. Street?

A. Yes—was concealed with me and I was again

(Testimony of Robert W. Lorenz.)

in [56] exactly the same location, and after this date we saw a '31 Chevrolet, green in color, turn into the driveway and park approximately in the same place. It was a small parking area there and it was about 30 feet from where I was concealed. I saw Arturo Jerez again at the wheel of this car, and Elkins came out of the house, walked up to the side of the car, and another transaction took place, and another brown paper sack was handed to Elkins, and I saw him pay the money to Jerez.

Q. Do you know of your own knowledge how much money he paid to Jerez? A. Yes, sir.

Q. What is it? A. \$1375.

Q. Is that the same amount he paid for the other five cans of opium? A. Yes, sir.

Q. Handing you Government's Exhibit 5 for identification, I will ask you to handle those and see if you can identify it. When you received this package from Mr. Elkins on the 19th day of August, did you mark the cans or the paper or anything at that time?

A. Yes, sir; that is standard procedure.

Q. And do you have any way of identifying that exhibit? [57]

A. Yes, by the date and the time and my initials right here.

Q. What is the date and what is the time?

A. 8-19-48, 1:30 p.m.

Q. Was anybody else's handwriting on there that you know of, put on there in your presence?

A. Mr. Elkins' should be on here.

(Testimony of Robert W. Lorenz.)

Q. Well, is it; can you tell?

A. I believe that is his right there, (indicating on exhibit). These are the cans all right.

Q. Can you tell the Court and jury whether or not those are the cans of opium that you received from Mr. Elkins on the 19th day of August, 1948, at his place in Tempe, Arizona?

A. Yes, sir.

Q. And what was done with that exhibit after you received it?

A. Well, it was turned over to me and it was again taken to the Narcotic Office.

Q. Then what was done with it?

A. With Agent Smith we examined it and sealed it and prepared it for the Government chemist.

Q. Now, after receiving the exhibit from Mr. Elkins on the 19th day of August, 1948, what did you [58] do besides take that to the office, if anything?

A. We again returned, and on returning to Phoenix, in going to the office, we went by the mattress factory, and that was at 1501 East Adams Street, and we saw the same car, a '31 Chevrolet parked between the mattress factory and 1505 East Adams, the home of Ray Leyvas.

Q. Now, when was the next time you appeared in this particular case as an investigator, Mr. Lorenz?

A. On December 16, 1948,—

Q. Just a second—all right, go ahead, December 16th, you said?

A. Yes, sir; December 16, 1948.

(Testimony of Robert W. Lorenz.)

Q. All right.

A. I was again at the residence of Mr. Elkins.

Q. Now, who was with you at that time, if anyone?

A. Agent Smith—Agent Earl A. Smith and Agent Teets.

Q. And who was Agent Teets?

A. A Narcotic Agent presently stationed in California.

Q. Where was he stationed at that time, if you know?

A. He was attached to this district at—— [59]

Q. I see. All right, what time of day was it that you got to the Elkins home on December 16, 1948?

A. Around 4:00 p.m. in the afternoon.

Q. Who did you meet at Elkins' home, if anyone, at that time

A. At that time Informer Elkins was there and us three agents.

Q. Where were you?

A. Concealed on the back porch.

Q. What in?

A. The back porch was covered with canvas blind and we had to let it down where we could not be seen.

Q. What became of Agent Earl Smith, this gentleman here?

A. Agent Smith, or Mr. Agent Teets was in the front part of the house where he could observe the surrounding grounds.

Q. Earl was with you on the back porch?

(Testimony of Robert W. Lorenz.)

A. Yes, sir.

Q. Now, what did you see while you were there, if anything, appertaining to this particular case?

A. Oh, at approximately 4:30 p.m., a red pickup truck drove into the yard. It was a truck of the Leyvas Mattress Factory, and I saw—— [60]

Q. Who was driving it, if you know?

A. Ray Leyvas was driving it.

Q. Anybody else with him? A. Yes, sir.

Q. Who? A. Art Leyvas.

Q. By "Art" you mean Arturo C. Leyvas, one of the defendants? A. Yes, sir.

Q. And by "Ray Leyvas" you mean Ray C. Leyvas, one of the defendants? A. Yes, sir.

Q. All right.

A. The truck pulled up very close to the back porch and at this time Ray Leyvas got off from behind the wheel of the car and took a mattress off the truck and talked to Mr. Elkins, and then they passed from my view. A short time later they both walked back to the car, and at this time Art Leyvas got out of the car, and Ray Leyvas introduced Elkins to him as his brother. There was a short conversation and——

Q. Who was this conversation between?

A. Between—the conversation then took place between Elkins and Art Leyvas. At about 4:48, I saw a package passed from Art Leyvas to Elkins which [61] I later ascertained was a small capsule——



(Testimony of Robert W. Lorenz.)

Q. All right, go ahead. Proceed. What did this package appear to be at the time you saw it; describe it.

A. It was just a small package, looked like a capsule.

Q. What do you mean by "capsule"?

A. Well, a small oblong object.

Q. Then what took place?

A. In a few minutes Art Leyvas got back in the truck, the truck backed out of the residence and appeared to be going back towards Tempe, and at that time why Elkins came into the house and we examined the object and found it to be a capsule with a white powder, heroin.

Q. What became of this capsule?

A. It was kept in our possession then.

Q. Was it ever sent to the chemist?

A. Yes, sir. After leaving the house, later that evening, why it was prepared like all other evidence, examined and sealed and sent to the chemist.

Q. I hand you Government's Exhibit No. 15 for identification and ask you to examine the contents of the exhibit, the contents in this white paper here. [62]

A. This is the capsule, is broken.

Q. That is the capsule you have already mentioned? A. Yes, sir.

Q. Have you any other way of identifying it other than outside of the——

A. Yes, sir, my initials and the time on the paper.



(Testimony of Robert W. Lorenz.)

Q. Was this paper wrapped around it at the time you received it from Mr. Elkins, or when was that put on it?

A. It was on there when I saw it, yes. Whether it was on there before——

Q. When did you first see this?

A. When I put my initials on it. We added paper so that we could write it up for identification. There is no place on the capsule to write.

Q. After you got this capsule—who did you say gave it to you?

A. Mr. Elkins.

Q. Where were you when he gave it to you?

A. In the house of Elkins.

Q. And this sample was handled the same as all the rest you mentioned?

A. Yes, sir, identical.

A. All right. Immediately after getting this [63] sample what next did you do in the case?

A. We talked to Mr. Elkins and he stated that one of the——

Mr. Primock: I object to what he said as being hearsay.

The Court: Yes.

Mr. Thurman: That is right, don't tell what Elkins said at the time.

A. Elkins said——

The Court: No, never mind what Elkins said.

A. We examined the evidence then and waited there and waited at this same place until about 7:15 that evening.

(Testimony of Robert W. Lorenz.)

Mr. Thurman: 7:15. Where did you wait at that time?      A. Waited on the back porch.

Q. You and Smith still there?

A. Mr. Smith and I and Agent Teets in the front of the house.

Q. All right. Tell us what happened next.

A. At 7:15 a car drove part way into the driveway of this house, and because it was dark we were unable to see what it was. Elkins turned on the back porch light. I saw Art Leyvas walk into the light and walk up to the back steps about eight feet from where Mr. Smith and I were concealed. [64] Elkins came out of the house. He had a conversation. At this time, 7:17 p.m., Art Leyvas reached into his right coat pocket and brought out a package that he gave to Elkins. Elkins stepped inside of the house with the package, got the money, stepped outside and paid it to Art Leyvas.

Q. Can you describe the package that Arturo Leyvas gave to Elkins about 7:17 p.m. on that day?

A. It was an envelope, that is all I saw at the time.

Q. Did you see that envelope again after that?

A. Yes, sir.

Q. How soon after that?

A. Immediately after that.

Q. And where?

A. Right inside of the house. I was there; it was handed to us. We examined it.

Q. Again handing you Government's Exhibit 15

(Testimony of Robert W. Lorenz.)

for identification, will you examine it and see if you can find the exhibit that you have mentioned?

A. This is the package right here.

Q. And what was done with the package; was it handled similar to all the other packages that you have mentioned?

A. Yes, sir; it was initialed and dated at [65] that time by all present and kept in our custody.

Q. Was it sent over to the laboratory for analysis?

A. Yes, sir, it was sealed and sent up by registered mail.

Q. Now, what took place that you know of your own knowledge between Elkins and Arturo Leyvas at that time other than the mere handing of the exhibit to Elkins by Arturo?

A. There was a conversation in regards to narcotics that I overheard.

Q. Between who?

A. Elkins and Art Leyvas.

Q. What was said at that time and place by Art Leyvas to Elkins?

A. He was telling Elkins about some heroin and opium that they had on hand and also requested that if Elkins wanted any large amount, to try and have him give about a five-day notice.

Q. Now, when next did you appear in this matter as an investigator?

A. I don't know what the next date would be on there, whether it was——

(Testimony of Robert W. Lorenz.)

Q. Did you keep any record or anything that you can refer to?

A. Yes, sir; there was notes prepared at the—I [66] kept running notes every day I was on the investigation, just adding to them.

Q. Did you make these notes in your own handwriting? A. Yes, sir; in pencil.

Q. What kind of piece of paper or book did you keep that on? A. It was a penny postcard.

Q. Did you keep that record?

A. Yes, a continuous record so I could keep the investigation clear in my mind.

Q. Do you think you need that to refresh your memory at this time? A. Yes, sir.

Q. Well, look at it if you have to.

A. On January 14, 1949—

Q. Now, January 14, 1949, were you with any other officers that day?

A. Yes, sir; I was with Agent Smith and Agent Johnson.

Q. Any other narcotic agent?

A. No, sir; I believe that was all.

Q. All right, tell us what took place on the 14th day of January, 1949, concerning this case.

A. That evening about 9:00 o'clock, Agent Smith and I, in a Government car, were in the [67] vicinity of 1601 East Washington at the Piratas Club. We saw Agent Johnson enter this building and in a short time, at 9:20 p.m., emerge with Art Jerez. The two of them got in a Government car and drove north on 16th Street. We didn't follow

(Testimony of Robert W. Lorenz.)

them any closer at the time but immediately drove up to 1030 East Moreland Street, the house of Art Leyvas and Connie Duarte. At this time a Cadillac belonging to Enriquez was parked in front——

Q. In front of where?

A. 1030 East Moreland. We kind of cruised around the neighborhood and at 10:00 p.m. returned in front of 1030 East Moreland and saw the same Cadillac parked there, and in addition a 1941 Chevrolet with a Louisiana license plate, the number was 338799. We noted this, and then met Agent Johnson, and at this time Agent Johnson turned over a package to us, which was dated and initialed.

Q. What sort of a package was it?

A. It was a sack containing four cans of opium, paper containing——

Q. Now, referring again to January 14, 1949, did you do any other work that day?

A. Yes, sir. [68]

Q. And give the name of the agents that were with you that day?

A. There was Agent Earl Teets and Agent Smith and I.

Q. All right. Now, with respect to the activities of yourself, Earl Smith, and Narcotic Agent Earl Teets, what did you do, of your own knowledge, on January 14, 1949, with respect to the case?

A. Agent Smith, Agent Teets and myself met Elkins at that time. We searched him and gave him some marked money and searched his car. Agent Teets got in the rear of the trunk of the car,

(Testimony of Robert W. Lorenz.)

concealed himself, and Elkins drove to 1030 East Moreland, the house of Art Leyvas and Connie Duarte. He was followed by Agent Smith and I in another car at some distance. When he got up to the house at 1030 East Moreland, he got out of the car and knocked on the door, and I believe Connie Duarte came to the car. We saw him talk for a few minutes and then saw her re-entering the house, and Elkins was beginning to get into his car, and just as he was getting into his car Connie Duarte ran out of the house and hollered at him, and I saw him then sit in the car. A few minutes later we saw the '41 Chevrolet coupe with [69] the Louisiana license drive up and park behind Elkins' car. At this time Art Leyvas got out of the car and came up and talked to Elkins at his car, talked for a few minutes. Art Leyvas then went into the house at 1030 East Moreland and in a few minutes he again came out of the house and approached Elkins on the driver's side of his car and had a hand to hand transaction, saw a package passed, and saw Elkins count out some money. We observed this from about a half block, not quite a half block.

Q. You say you gave Elkins some money after you searched him. How much money did you give him?

A. It was \$50 marked Government money.

Q. Then what took place?

A. After the transaction, Art Leyvas returned to the house, Elkins drove away and we followed, keeping them in sight and followed them at a



(Testimony of Robert W. Lorenz.)

distance until we were well away from the vicinity of the neighborhood and out of town a ways, at which time we overtook Elkins and at this time he gave the exhibit to us and it was dated and initialed and examined.

Q. Handing you Government's 17 for identification, I will ask you to examine that and see if you can identify the exhibit that was ultimately [70] given to you by Elkins on the date that you have mentioned?

A. Yes, sir; these are the ones.

Q. Were these handled the same as the other exhibits? A. Yes, sir; identically.

Q. They were all sent to the laboratory?

A. They were sealed and sent by registered mail to the United States Chemist.

Q. Do you remember how long Mr. Teets stayed in the trunk of Elkins' car, if you know?

A. Oh, it was approximately 45 minutes to an hour, I believe.

Q. Now, when next do you appear here in this matter? A. I believe it was February 6th.

Q. The early part of February. You fix it the 6th, you say? A. Yes.

Q. Well, the next time you appeared in the case, what happened; what do you next personally know of?

A. It is possible I could have appeared sooner, I believe, if I can refer to my notes.

Q. Well, do it if you have any doubt, you have a record there, why, refer to it. [71]



(Testimony of Robert W. Lorenz.)

A. (Referring to memorandum): On January 15th, the next day——

Q. What happened on January 15th, then?

A. Agent Smith and I met Informer Charles Cobos.

Mr. Thurman: We don't know whether Cobos will be here or not, so we can't use it.

Mr. Primock: I move that that be stricken and the jury admonished to disregard the remarks of counsel.

Mr. Thurman: We don't know if Cobos may come, I don't know.

The Court: All right.

Mr. Thurman: We certainly agree to have it stricken if he does not show, your Honor.

The Witness: On February 2nd was the next one.

Q. Now, will you please tell us what happened on February 2, 1949, to the best of your recollection?

A. On February 2nd, Agent Earl Smith, Agent Teets, and I again met Elkins. He and his automobile were searched. He was furnished with marked Government money.

Q. How much, do you remember?

A. I don't remember.

Q. All right.

A. And they drove to 1030 East Moreland [72] again, and he met Art Leyvas and Connie Duarte at 10:50 in the morning; 10:50 a.m. Connie Duarte came out of the house and came to the car.

(Testimony of Robert W. Lorenz.)

Q. Where were you at that time?

A. I was diagonally from the house less than a half block distance. I had a pair of high-power field glasses.

Q. You were not in Elkins' car at this time?

A. No, sir; I was not. Agent Teets was.

Q. Whereabouts was Agent Teets in Elkins' car?

A. He was again concealed in the trunk of the automobile.

Q. He was—who was driving this car?

A. Elkins was driving the car.

Q. What time of day did you say it was?

A. That was about 10:50 in the morning.

Q. What did you see at that time and place?

A. I saw Connie Duarte leave the house and come out to the car and after several minutes of conversation with Elkins, why, she left the car and re-entered the house. In a few minutes she again came out and approached the car, and at this time I saw a package passed and money passed. After a short conversation, Connie again left the car, returned to the house, and Elkins drove off. He was followed by us. [73]

Q. All right. What did you do after Elkins drove away?

A. We again followed them from a distance, he never left our sight. We were careful that we weren't observed.

Q. Followed who?

A. Elkins' car away from that vicinity and then stopped them and he handed the evidence to us.

(Testimony of Robert W. Lorenz.)

Q. How far did you follow him before you stopped him, approximately?

A. Well, it would be approximately within several miles.

Q. Huh?

A. Within a mile and a half or two.

Q. Of the place—— A. Yes, sir.

Q. And then what happened—who was with you at the time you stopped Elkins?

A. Agent Smith was with me.

Q. Agent Smith, this gentleman here on my right, Earl A. Smith? A. Yes.

Q. And what took place between you and Agent Smith and Mr. Teets and Elkins, if anything?

A. The evidence was handed to me and it was examined, and he initialed and dated it at that [74] time.

Q. Handing you Government's Exhibit 20 for identification, I will ask you to open the envelope and see if you can identify the contents of that exhibit. A. Yes, sir, this is the one.

Q. How do you identify it?

A. By my initials and the date and also that sealed package, the same thing.

Q. Did Elkins initial it at that time?

A. Yes, sir.

Q. You saw him put his initials on there?

A. Yes, sir; that was done in my presence.

Q. And this exhibit was also sent to——

A. Yes, sir, it was sealed and sent by registered mail.

(Testimony of Robert W. Lorenz.)

Q. To the laboratory for analysis?

A. Yes, sir.

Q. Now, when did you appear again in this picture in the capacity of an investigator?

A. February 6th.

Q. February 6th, Nineteen Hundred and what?

A. '49.

Q. Was anyone with you on this particular date?

A. Yes, sir; Agent Smith——

Q. Just a minute, we had better skip the 6th. When [75] did you appear again after February 6th?

A. Again on the 8th of February, 1949.

Q. All right, on February 8th, 1949; who was with you? Go ahead and tell us what you did.

A. February 8th or 6th?

Q. February 8th.

A. On February 8th, Agent Smith was again with me and at this time we were in the vicinity of 1018 South First Street.

Q. Did you know of a narcotic agent or customs agent by the name of Harry Bumph and Fred Parkinson?

A. Yes, sir; I do.

Q. Do you remember if you ever did any work for Bumph and Parkinson and Agent Earl Teets?

A. Yes, sir.

Q. On or about February 8th, 1949?

A. Yes.

Mr. Primock: I am going to object to the United States Attorney trying to impeach his own witness.

Mr. Thurman: I am not trying to impeach him.

(Testimony of Robert W. Lorenz.)

I am trying to refresh his memory simply, that is all. I don't have to impeach this witness.

A. Well, on February 8th I was covering 1030 East Moreland Street again. Customs Agent Bumph and [76] Parkinson were with me. We were parked about a half block away concealed behind a hedge of bushes watching the rear door of 1030 East Moreland. We observed the car of Informer Elkins drive up. Just previous to our arriving there, we had searched the informer and again at this time Agent Teets had concealed himself in the rear of his car in the trunk.

Q. What did Elkins do?

A. Elkins drove up to 1030 East Moreland and got out of the car. He went up to the house. I am not quite sure, I will have to go back to my notes then.

Q. If your notes will help you.

A. No, I don't have that. I saw—I believe that it was Art Leyvas again came to the car.

Q. And what was done when Art Leyvas went to the car?

A. There was—let's see, when Art came out of the house and went to the car there was another exchange of a package and money.

Q. What became of the officers Bumph and Parkinson?

A. They were with me, right with me at that time in the car.

Q. Did you see any exchange of money or pack-

(Testimony of Robert W. Lorenz.)

ages [77] between Elkins and the defendant, Arturo Leyvas, at that time that you remember of?

A. Yes, sir; there was.

Q. What happened; did you hear any conversation at that time and place?

A. No, sir. I was too far for any conversation.

Q. About how far were you?

A. I was approximately a half block away with field glasses.

Q. Now, what happened after the exchange that you could see with those field glasses; what took place then?

A. I believe it was on that date that—after the exchange the defendant drove off, or Elkins drove off in his car.

Q. And do you know where Teets was during all of that time?

A. Yes, he was still concealed in the trunk of the automobile.

Q. What automobile?

A. The car of Elkins.

Q. Subsequent to the time that Elkins—when Elkins drove away with Teets in the back of the car, as you have testified to, what next did you do in the case; what happened?

A. We again followed them away, a safe distance from there, stopped the automobile and [78] conferred with Agent Teets and Elkins and received the exhibit.

Q. Where was Teets when you stopped the car?

A. He was still in the trunk.

(Testimony of Robert W. Lorenz.)

Q. He got out, then?

A. That is right, we had to let him out.

Q. What took place then when you stopped the car?

A. The evidence was dated and initialed and examined.

Q. Who gave you the evidence?

A. Mr. Elkins.

Q. Would you recognize it if I was to hand it to you?

A. Yes, sir; it should have my initials and the date on it.

Q. I hand you Government's Exhibit 24 for identification, and I will ask you to examine this exhibit and see if you can identify it.

A. Yes, yes, that is my initials and it is here.

Q. What about this piece of paper?

A. That was wrapped around the package.

Q. Who wrapped it on there?

A. It was that way when I received it.

Q. From Elkins? A. Yes, sir. [79]

Q. Did Elkins sign that thing, too, or initial it?

A. Yes, there is his initials right there (indicating).

Q. And it was sent to the laboratory, was it, for analysis?

A. Yes, sir, it was sealed and sent by registered mail.

Q. This particular exhibit here, this type of envelope that is used in your department in sending materials of that kind for analysis to the laboratory?



(Testimony of Robert W. Lorenz.)

A. Yes, sir; it has a locking device on it.

Q. They are all the same, are they?

A. Yes, sir.

Q. What was one of the last acts you did in this case?

A. On February 15th, 1949, the arrest of all defendants were contemplated and early on the morning of February 15th, we began surveillance with other officers, relief officers, at 1030 East Moreland Street. Early in the morning, about 2:45 a.m., we—when we came on that shift at 1:00 a.m. the Cadillac AM-3226 was parked in front of 1030 East Moreland. About 2:45 a.m. we saw that car depart from there with three men in it, but we [80] lost it temporarily and by crisscrossing picked it up at approximately Eleventh Street and East McDowell Road. At that time I was driving the Government car and I swerved in front of them and stopped them and Pirata. Joe Martinez and Mike Sandoval were in the car.

Q. Who is "Pirata"?

A. Arnold Enriquez.

Q. The defendant who sits here?

A. Yes, sir; that is his nickname, "Pirata."

Q. Who was driving the car at that time?

A. Arnold Enriquez.

Q. Go ahead.

A. They were stopped at 3:00 a.m. in the morning and we searched them and taken them into custody at that time.

Q. And that car that the defendant Arnold

(Testimony of Robert W. Lorenz.)

Enriquez was driving on February 15th, 1949, did you say that was the same car that you saw in July of '48?

A. Yes, sir; that was the same car I saw on July 22nd, 1948.

Q. At the Elkins home?

A. Yes, sir; it had the same license and all.

Mr. Thurman: You may cross-examine. [81]

### Cross-Examination

By Mr. Primock:

Q. Mr. Lorenz, how long have you been a Federal Narcotic Agent? A. Since '47.

Q. And all of the time you served here in Phoenix? A. That is correct.

Q. You work on a straight salary, do you not?

A. Yes, sir.

Q. You don't get so much a case like the Informer Elkins does? A. No, sir.

Q. Now, directing your attention to July 22d, 1948, at Tempe, what time of day did you get there?

A. Got there about 11:30 in the morning.

Q. In the morning? A. Yes, sir.

Q. And you saw a transaction between the defendant, one of the defendants, Art Jerez, or Jerez, and Elkins, is that correct? A. Yes, sir.

Q. Did you see this defendant Arnold Enriquez at that spot? A. No, sir.

Q. At that time I believe you said you took [82] four cans into your possession from Elkins.

(Testimony of Robert W. Lorenz.)

A. Five cans.

Q. Five cans, and those five cans are this Exhibit 4 here, is that correct, these are the cans, are they, that you took into your possession at that time and place?

A. No, those are not the ones.

Q. Where did you take these into your possession?

A. August 19, 1948.

Q. That is August 19, 1948?

A. Yes, sir.

Q. Those were taken into your possession in Tempe, were they not?

A. Let's see—yes.

Q. And those were given you, were they not, by Mr. Elkins?

A. That is right.

Q. Now, Mr. Lorenz, outside of the wrapping and the markings and looking at the individual cans themselves, can you truthfully state under oath that those individual cans are the same cans that were given you at that time and place?

A. Outside of the initials and markings?

Q. On the wrapping paper, outside of anything on the wrapping paper, looking at the individual cans themselves, can you state under oath that [83] those are the same cans that were given to you on August 19th, 1948, by Mr. Elkins?

A. Yes, sir.

Q. Not that can, there are cans, other cans identified as little cans were the ones?

A. No, this is the exhibit you just handed me.

Q. There is some little cans in here.

A. Here is my initials "R.W.L."

Q. They are on each one of those cans?

(Testimony of Robert W. Lorenz.)

A. Yes, sir.

Q. Are they on all of them together or are you telling from the top one only?

A. I put them on each can.

Q. Now, you said you gave——

Mr. Thurman: Just a minute, you got a question there and I want him to answer it.

Mr. Primock: I thought he answered it.

Mr. Thurman: No, he hasn't answered it, I would not have objected to it.

The Witness: I can't get them apart. My initials are on the can here. Here is one on this one, and all the cans are similar. They were all in the same package that I initialed and dated. They never left the package.

Q. (By Mr. Primock): Now, Mr. Lorenz, excuse me, are you through with the answer? [84]

A. Yes.

Q. You say on August 19th you gave Elkins \$1375 to buy those cans?

A. Let's say I didn't give it to him, money at no time.

Q. Were you present at the time the money was given to him? A. Yes, sir.

Q. Do you recall the denominations of that money?

A. No, I don't have a record of it.

Q. Was the money marked? A. Yes, sir.

Q. What type of marking was put on the money?

A. All the serial numbers was recorded.

(Testimony of Robert W. Lorenz.)

Q. Just the serial numbers?

A. The series and serial number.

Q. There was no individual marking put on by you?

A. No, sir; I didn't put any of it on.

Q. To you knowledge, and in your presence there was no markings put on that money?

A. No, sir.

Q. Now, on August, or rather February 15th—no, strike that. On July 22d, 1948, also \$1375 was given to Informer Elkins, is that correct [85]

A. Yes, sir.

Q. Were you present when that money was given to him? A. Yes, sir.

Q. And was there any specific markings put on that money except recording the serial number?

A. No, sir.

Q. Mr. Lorenz, all the notes that you took as you went along on this case were recorded on that one postcard? A. No, sir; they are not.

Q. But that one postal card is a part of the notes, is it? A. Yes, sir.

Q. You made that up as you were going along?

A. Yes, sir.

Q. And how many other postal cards did you make up? A. I have no idea.

Q. Approximately how many?

A. It has been recorded on different sheets of paper, not all cards.

Q. You have other notes which were recorded on other sheets of paper? A. Yes.

(Testimony of Robert W. Lorenz.)

Q. Do you have those with you? [86]

A. No, I don't.

Q. You are going to trust your memory except as to what is on the postal card?

A. That is true.

Q. Now, on August 19, 1948, in Tempe, did you see this defendant Arnold Enriquez ever in Tempe on August 19th, 1948? A. No, sir.

Q. I believe you stated that a green '31 Chevrolet drove up on August 19th, 1948?

A. That is correct.

Q. What was the license number of that '31 green Chevrolet? A. AJ-1814.

Q. AJ-1814, you are sure of that?

A. Yes.

Q. Now, on December 16th, 1948, I believe you saw a pickup truck drive over into Tempe and another hand to hand transaction took place with Informer Elkins? A. Yes.

Q. On that particular date, at that particular time and place, did you see this defendant Arnold Enriquez? A. No, sir.

Q. What was the license number of that pickup truck [87] on that date? A. 34603-A.

Q. 34603-A? A. 34603-A.

Q. 3-A or 38? A. Yes.

Q. You are sure of that license number?

A. Yes, sir.

Q. Was this recorded on your notes that you have in your possession?

A. I believe it may be, but I——

(Testimony of Robert W. Lorenz.)

Q. Would you take a look and see if they are——

Mr. Thurman: I object, I don't see the materiality whether it is on that slip or not. If he is correct, he is correct.

Mr. Primock: Well, we will withdraw the question. It is all right, we will withdraw it.

Mr. Thurman: I mean challenging his notes.

Q. (By Mr. Primock): Now, on January 14, 1949, I believe you stated you were at Sixteenth Street and Washington and you followed Agent Johnson and Arturo Jerez, is that correct?

A. No, sir; I didn't follow them.

Q. Well, you saw them get out of the car and followed them for a block or two, didn't you?

A. I saw them leave the club. [88]

Q. Didn't you follow them at all?

A. No, sir.

Q. Wasn't that your testimony, that you followed them for a block or two on North Sixteenth Street?

A. I saw them drive north on North Sixteenth.

Q. You didn't follow them at all?

A. No, sir.

Q. You don't know what happened?

A. No, sir.

Q. Did you see Arnold Enriquez at that time?

A. No, sir.

Q. Now, on February 2nd, 1949, when you drove by the home of Connie Duarte and Arturo Leyvas,



(Testimony of Robert W. Lorenz.)

which I believe you stated was what address on East Moreland?      A. 1030 East Moreland.

Q. 1030 East Moreland, and you saw another hand to hand transaction take place, is that correct?

A. I will have to refer to my notes.

Q. Well, refer to your notes and tell us whether or not you testified on direct examination that you saw a hand to hand transaction on February 2d, 1949, on East Moreland?      A. That is correct.

Q. And at that time and place did you see this [89] defendant Arnold Enriquez?

A. No, sir.

Q. Now, on February 8th, 1949, you testified that you and Agent Smith went down to 1030 East Moreland and parked another half block away and related the same story that you saw a hand to hand transaction with Elkins and Arthur Leyvas, did you testify to that?      A. Yes, sir.

Q. And at that time and place did you see this defendant Arnold Enriquez?      A. No, sir.

Q. And the first time you saw Arnold Enriquez was February 15, 1949, is that correct?

A. That is correct.

Q. I believe you testified Arnold Enriquez was driving a Cadillac automobile on this morning, the morning of the arrest?

A. Yes, at 3:00 a.m., I believe it was.

Q. Did you search Arnold Enriquez at that time?      A. Yes, sir.

Q. Did you find any narcotics in his possession?

A. No, sir.

(Testimony of Robert W. Lorenz.)

Q. And, as a matter of fact, Mr. Lorenz, all your testimony and all you know is concerning all the other defendants in this case excepting Arnold [90] Enriquez, is that correct?

A. What I have testified to.

Q. That is all—oh, one further question. These two license numbers that you gave me on the green Chevrolet and the red truck, was that the '48 license plate or '49 license plate?

A. This was a '48 license plate.

Mr. Primock: That is all.

Mr. Thurman: That is all.

(The witness was excused.)

The Court: Well, it is time for our afternoon recess. We will have a five minute recess, gentlemen. Keep in mind the Court's admonition.

(A short recess was taken.)

(After recess, all parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:)

The Court: You may proceed.

Mr. Thurman: Mr. Okla W. Johnson.

## OKLA W. JOHNSON

was called as a witness on behalf of the Government, and being first duly sworn, testified as follows:

## Direct Examination

By Mr. Thurman:

Q. Please state your name. [91]

A. Okla W. Johnson.

Q. Now, Mr. Johnson, where do you live?

A. San Antonio, Texas.

Q. How long have you live in San Antonio, Texas? A. Oh, about eight years.

Q. Now, during the years of '48-'49 and at the present time have you held any official position with the Federal Government of the United States?

A. Yes, sir; I am a Federal Narcotics Agent under the Treasury Department.

Q. And how long have you been such narcotic agent? A. A little over eight years.

Q. And do you have occasion in that capacity to investigate cases in the State of Arizona and Texas?

A. I do.

Q. Now, did you have occasion, Mr. Johnson, in your capacity as a narcotic agent, to make investigation of the case now on trial before this Court?

A. I did.

Q. And what officers did you associate yourself with in that investigation?

A. I came here under instructions from, of [92] course, my District Supervisor, and was to work directly with Agent Smith.

(Testimony of Okla W. Johnson.)

Q. This gentlemen here?

A. And, of course, Mr. Lorenz here. I mean with this office, in other words.

Q. In your activities in this particular investigation, did you become acquainted with Arturo C. Leyvas?      A. I did.

Q. And Arnold Enriquez, the defendant in this case?      A. Yes, sir.

Q. And Ray C. Leyvas, the brother of Arturo C. Leyvas?      A. No, sir.

Q. You don't know him?

A. I know him now, but I didn't know him during this investigation?

Q. Connie Duarte?      A. Yes, sir.

Q. Arturo E. Jerez or Jerez?      A. Yes, sir.

Q. And Joe Martinez?      A. Yes, sir.

Q. Now, when did you first come to Phoenix on this case under the direction of your superior? [93]

A. I arrived in Phoenix on the night of September 23d, 1948.

Q. And how soon after you landed here did you meet any of the defendants whose names I have mentioned?

A. I first met Colimo, as I knew him for some time, and who I will refer to so we won't get mixed up with the two Jerez as "Colimo."

Q. As "Colimo"?      A. He is Art Jerez.

Q. When did you first meet him?

A. Well, I met him through another acquaintance I had met here. When I first came I met a

(Testimony of Okla W. Johnson.)

man by the name of Frank Colbert who I was to work with, and he knew a great many people I was to work with. Through him I met a fellow by the name of Joe S. Araga, a Mexican boy who hung around the corner of Second Street over here, and I ran around with him for two or three days, and on the 26th of September I had occasion to be up at the Pan-American Club on the corner of Sixteenth and Washington.

Q. Here in Phoenix, Arizona?

A. Here in Phoenix, Arizona, where I met the defendant in this case, Arnold Pirata, as I knew him at that time. That is where I was introduced to [94] him by Colbert and Joe S. Araga on the night I first went out there. I also met Joe Martinez that night and met Colimo—Art Jerez on that same night, and of course, several other people. During that evening I was taken into the Pan-American Club by having Joe S. Araga vouch for me and also Frank Colbert, and I was given a membership card to the Pan-American Democratic Club, which was the old Pirata Inn at the corner of Sixteenth and Washington here in this City. I have that card here, which is signed by Joe Martinez, President, and I don't know who this Lucille Tapia is, but she is the girl that issued the card after I had been introduced there and taken into the Club.

Q. The signature on that card by Joe Martinez, do you know of your own knowledge whether or not that is the same Joe Martinez who is one of the defendants in this case?

A. I do.

(Testimony of Okla W. Johnson.)

Q. Is it or is it not?

A. Yes, sir; it is the same, yes, sir.

Q. And was this defendant here, Arnold Enriquez, a member of that organization?

A. I don't know.

Mr. Primock: Just a minute, I object as [95] not the best record.

The Court: The witness said he doesn't know.

Mr. Thurman: He doesn't know, and about what time of the day was it that you first met these people at the Club that you mentioned?

A. This was along about six in the evening, and I stayed there and we had some drinks and played the slot machines, and so on, I guess, until ten o'clock, and it was about that time when I got my membership card, and when everything was fixed up. Incidentally, you have to have a membership card to get in because they had slot machines and other things.

Mr. Primock: I am going to object to the materiality of this.

Q. (By Mr. Thurman): Then what took place with respect to this case after you became a member of the Club?

A. I talked with Joe S. Araga at that point, and I had been talking with him prior to that about buying marijuana, or buying some mud that we had been calling opium.

Mr. Primock: I move that that be stricken on the grounds of hearsay.

The Court: Go ahead.



(Testimony of Okla W. Johnson.)

A. I gave Joe S. Araga \$25 and I saw him go [96] directly to Colimo—Art Jerez, and talk with him, and then Art Jerez left the Club. Frank Colbert was there, and he was called out of the Club by Colimo, and went out into the back yard and then came and called for me to come out and he had what was supposed to be 50 marijuana cigarettes. There was only 46 in the package, and I received those from Frank Colbert on that night.

Q. (By Mr. Thurman): Well, what happened after that with respect to any of these defendants in this particular case?

A. It was on the 28th, then, that I was there at the Club, and Joe Martinez—

Q. 28th of what?

A. 28th of September, just two days after I purchased this marijuana. I was at the Club, and Joe Martinez and Arnold Pirata and a fellow by the name of Haywood and two or three others were getting up a poker game. I was invited to get into the game in the back room at the Club. This I didn't do at the time. That was the second occasion, although I had met this defendant and had been in his company. I left the Club shortly after they started a game, and I didn't see them any more then until about the 3d, I believe, of November, was the first actual contact I had had [97] with anybody in the Club. I had been talking with Colbert and with Joe Araga, and they had been talking with Colimo, and on Sunday afternoon—I want to check that to be sure it was Sunday afternoon, I recall



(Testimony of Okla W. Johnson.)

very definitely, it was October 3d I met Colimo down town. I had been in a bar where Frank Colbert was, and he had a talk with Colimo on the phone. I knew what they had talked about although I didn't enter into the conversation. Colimo met me on the corner of Second, and I believe it was Washington, and asked me if I had seen Joe S. Araga. I told him that I had not, that I had been looking for him and could not find him. He said, "Well, I will go up here at another bar on Washington and see if I can get him," and he said that I should wait right there, and I waited at this corner and waited and watched for Joe S. Araga. I didn't see him. Pretty soon Colimo came up and he said, "I can't find him, I guess we will have to go through with this deal without him." Then he said, "Have you got your car? Let's get off of this corner, it is too hot," and I had a Government car parked just a short ways from there. We both got in it and he directed me to drive to Third Street and down across the railroad tracks for a couple of blocks [98] and then back around on Second Street where he directed me to park in front of a small Mexican cafe beside about a '38 Chevrolet. Colimo got out of the car and walked over to this Chevrolet on the left hand side by the steering wheel and reached inside of the car without opening the door, and just reached in through the window and picked up a small envelope which he brought over to the car and he said, "Have you got the money?" I said, "Yes, I have \$50." "Well," he said, "Here is 50

(Testimony of Okla W. Johnson.)

fun.” That is Chinese weight for opium, that comes in small weights, in a small amount.

Q. How do you spell that?

A. Fun—f-u-n. I received this jar from him and then he said, “Well, now here is two more I am going to give you on consignment,” he said, “I have got it out there and I don’t want this small stuff laying around,” and he said, “I have been talking with Frank.” He said, “I think you can move it and I think you will pay me, I am in no special rush for the money, but I don’t want no small stuff around.” He left two 25 fun jars which he said I could pay him. He said, “That extra 50 fun you can pay me for any time you can get the money.”

Q. And when he spoke of Frank, who did you have [99] reference to?

A. Frank Colbert. Frank was not present at that time. He was on duty working and he had talked with Colimo on the telephone and I had carried on with the plan by myself working with Colimo.

Mr. Primock: If the Court please, I am going to object to this witness reading from some papers unless counsel inquires what those papers are.

The Court: All right.

Q. (By Mr. Thurman): Did you make any notes?

A. This is a memorandum that I made after each time I talked or met with any of these people. I, of course, could not write at the time I was with them, but when I got home I sat down, wrote a

(Testimony of Okla W. Johnson.)

memorandum up for them so the office would know what I had been doing, and so I would have a complete memorandum of what happened.

Q. At the time did you make any lead pencil notations?

A. It was impossible for me to do that working with these people on the street.

The license number of that car was AA-599 on the Chevrolet that was parked there that he took the opium out of.

Q. What color was the car? [100]

A. Just an old black one, as I recall it. It didn't impress me very much at the time, but I did get the number.

Q. I hand you Government's Exhibit 6 for identification, Mr. Johnson. I will ask you to examine it and see if you can identify it.

A. This is a 50 fun jar, has my initials on there, O.W.J. 10-3-48, and the other officer's initials are also on here who I turned it over to.

Q. Who did you turn it over to?

A. I turned it over to Earl Smith.

Q. What is that, a 50 fun jar?

A. It is 50 fun.

Q. Did it have Internal Revenue stamps on it?

A. No, sir.

Q. Cancelled, or otherwise?

A. No, sir, none whatever.

Q. What about the other?

A. This is one 25 fun and here is the other. They both have my initials "O.W.J." and have the date

(Testimony of Okla W. Johnson.)

that I received them, and they are in the same condition that they were when I received them. It was wrapped in this tissue and this envelope. Says "Luis Jerez." He is the brother of Colimo whom I was dealing with, and it was delivered to me——

Mr. Primock: If the Court please, I am going to object to this witness continually talking without counsel asking the witness questions.

Mr. Thurman: I think he has answered the questions as to the identification of this particular exhibit, and he is telling about how it was wrapped.

Mr. Primock: He is telling stories about what is written on there, somebody's brother.

The Witness: This is the envelope I received it in. I received this fun in that envelope from Colimo and it has his brother's name on it.

Q. (By Mr. Thurman): That is the way you identified this exhibit?           A. Yes, sir.

Q. You are positive?

A. I am absolutely positive.

Q. Who did you say you gave it to?

A. Mr. Smith.

Q. Now, at the time that you got this from Colimo, as you testified, did he have any authority or form issued in blank for that purpose by the Secretary of the Treasury of the United States as required by the Act?           A. No, sir.

Q. Now, after making this particular pur- [102]

(Testimony of Okla W. Johnson.)

chase that you mentioned, what next did you do?

A. I spent, of course, a great deal of my time at this club because I knew that is where I was going to meet everybody that I was interested in, and on October 5th, I paid Colimo \$25 for one of the jars that I had purchased before and had not yet paid Colimo for. I had a little conversation with him at that time about buying a larger can of opium, and he told me they weren't available just now, but within a few days they would have a supply. On October 10th I again met Colimo, I met him in the front end of the bar, but before Colimo came in I had been talking with Haywood and Art Leyvas in the bar, and although I didn't know Art, I had gotten quite well acquainted with Haywood. He had come over to me on two or three occasions and said something to me and we held a little conversation and then he would go back talking with Art. A short time later Colimo came in and he was accompanied by the defendant in this case, Arnold Enriquez, and Arnold Enriquez and Leyvas and Haywood and Colimo were all having quite a conversation at the right hand side of the bar, and I had been sitting down near the middle or more nearly toward the left end of the bar. Two or three times during this time, Haywood came [103] over and talked to me and then went back to the crowd, and Colimo came over and talked to me on two occasions and went back, and I called Colimo out a little ways from the rest of them and he said, "We were talking about you," and we sat there and had a conversation about buy-

(Testimony of Okla W. Johnson.)

ing another 50 fun of opium, and I told him I wanted to pay him \$25 that I had gotten, and I wanted another 50 fun and if I could buy a larger quantity. He said, "Well, go ahead and finish your beer, I will see what I can do," and he went back to this group and talked, and Arnold Enriquez was present at that time. I didn't hear anything what was said, but they talked with Art Leyvas and Enriquez and Haywood, they were just in conversation there and I sat up to the bar and in about five minutes later Colimo called to me and says, "Follow me," and we went into the place next door, which is a little cafe that has previously been mentioned in the testimony here, which is just south, I believe, anyway it is probably at 603 on the same side of the street as Pirata's in, and we went in there and ordered a couple of cokes and he said, "I will be back in just a second," and he went out and turned the corner, went around toward the back and was out of my sight. He came back in probably three minutes, sat down, drank his coke with [104] me, and he said, "Have you got the money?" Meanwhile I counted out \$75, put it in my shirt pocket, and I just slipped it to him and I said, "Here is the money." He said, "Follow me." We drank our cokes, went outside of the building, went toward the back, and he stopped, handed me a 50 fun jar. He said, "That makes us all even. What you got from me before is all paid for." He asked me not to go back in the club. He said, "Don't go back in the Club unless you have to, but I'd rather you not go



(Testimony of Okla W. Johnson.)

back in the Club." I said, "That is perfectly all right. I will go around through the courts and get in my car and leave."

Q. (By Mr. Thurman): Handing you Government's Exhibit 7 for identification, see if you can identify the exhibit.

A. There are my initials, "O.W.J." and the date 10-10-48.

Q. And stamps on it?

A. There is no stamps, no, sir. On this there is also my initials, date 10-10-48. There is no stamps on that one either and they were wrapped in this paper when I received them.

Q. What did you do with those exhibits?

A. I turned them over to Mr. Smith.

Q. He had no permit from the Secretary [105] of the Treasury to purchase these, did he, to sell them, rather?

A. Not that I know of.

Q. Did he show you any or furnish you any?

A. No, sir.

Q. What day was that, did you say?

A. It was on October 10th, 1948.

Q. After making this purchase of this Government's Exhibit 7 for identification, what did you next do in this matter, Mr. Johnson?

A. On the afternoon of October 29th—No, take that back, it was on the evening of October 29th, I went to the Club about 8:00 p.m., the same club on the corner of Sixteenth and Washington, and I waited for Colimo and talked to him and he said that—I talked to him at this time about some



(Testimony of Okla W. Johnson.)

heroin, and he told me that the stuff was too high. I told him that I wanted to buy for someone that I knew who used it, and that was the only reason I was interested in it. At that time he said it was too high, he wasn't handling any at that time, that I'd have to buy three or five pieces, and if I bought that much they would be worth \$500 a piece, and it had been so high he had not handled any of that. I talked to him about some opium and he said at that time that there [106] was a fellow here who was going back to Mexico and he had some stuff he wanted to sell for \$180 a can, and he said he could get me three or four cans of it if I wanted to buy it. I had quite a bit of conversation with him and he said he would give me a real good buy on this and it was a good deal, but I turned it down at this time due to the fact that we had about all the purchases from Colimo that we wanted.

Then, on October 29th, later that evening, after I had talked with Colimo out there and turned this deal down, Frank Colbert—I started out with, I started in a poker game in the back room of the Pan-American Club, in which Joe Martinez and some American fellow by the name of Jim, and two or three other people were playing, and I started playing poker there with the boys, and I had been in the game about a half hour when Art Leyvas came in. Meanwhile, Pirata had come in along with two or three others, but they had not gotten into the game, but they were standing around in the room.

(Testimony of Okla W. Johnson.)

Leyvas came up and said, "Hello fellows," and, "Hi, Johnnie," and that was all that was said at that moment, and he went directly out again, and within about a minute, Frank Colbert came in and called me and said, "Johnnie, come and buy [107] me a drink at the bar." Of course, I knew something was up, so I immediately followed him out and he told me Art Leyvas was out there and he was ready to sell me four or five cans of opium and that I should come with him right then and we could go make a deal. I went back to check out of the poker game, and Pirata came up to my chair and said, "Go ahead, check out, Johnnie, I will take your place," and urged me out of the game, and I got out of the game and went on out——

Mr. Thurman: By "Pirata," that is this defendant here?

A. Yes, sir; this defendant himself. He took my place in the game and I left the Club. We drove about a block and a half up the street where Colbert left my car and walked up about three or four car lengths and got in the car with Art Leyvas, in that car with license No., Louisiana license No. 338-799, a Chevrolet club coupe that has been previously mentioned in the testimony here. They had a conversation out there in the car and Colbert came back to me and said——

Mr. Primock: I am going to object to what Colbert said, your Honor, as heresay.

The Court: All right.

(Testimony of Okla W. Johnson.)

The Witness: I gave Colbert \$300 to buy [108] one can, and told him to tell Leyvas that I——

Mr. Primock: Object to what he told Colbert on the same grounds.

Mr. Thurman: Just tell what Colbert did.

A. I gave him \$300 to buy one can as a sample.

Q. Then what took place?

A. Then Leyvas and Colbert drove away, going north on Sixteenth Street. They were gone about 15 minutes and they came back and parked near the corner of Sixteenth and Monroe Street where I saw Leyvas in the car and Colbert got out. Colbert came over to the car and handed me a can of opium and he said, "Let's test it." I then made a test of the opium as best I could in the car by burning it, and I told him to go ahead and pay for it. He went back to the car and I saw him in a transaction with Leyvas over across the street, and Leyvas then drove away and Colbert came back to the car and handed me \$50.

Q. What about this opium you mentioned?

A. I already had possession of the opium. Colbert had handed it to me immediately when he came over before he paid for it. After I returned to my quarters I got in touch with Agent Smith and turned it over to him.

Q. Do you think you could recognize that [109] exhibit if you were to see it?

A. Yes, sir.

Q. Please examine Government's Exhibit 8 for

(Testimony of Okla W. Johnson.)

identification and see if that is opium that you received at that time and place from Colbert?

A. I know that I initialed it, but with this resealing it may be covered up. Frank Colbert initialed it at the time.

Q. What is this red stuff on here?

A. That is, no doubt, the chemist's resealing—there is some dates on there, it is 11-17-48.

Q. Do you remember where you initialed it?

A. No, sir; I don't. As a rule, I take my knife out and scratch my initials, but there are so many places here that has been covered up with opium I haven't found them yet. Lots of times I put it on the top, other times I initial them on the side, wherever seems like the best place, where I can put it.

Q. After you got the stuff you mentioned from Mr. Colbert, what did you do with it?

A. I took it home at my house and got in touch with Agent Smith and turned it over to him that night.

Q. You can find no identification mark on that?

A. No, sir; I just can't locate anything. I [110] know I placed one on there, but it is wholly covered up by opium there now.

Q. Does that have the general appearance of the can you got?

A. Yes, sir; every can I purchased was a discarded tobacco can, I mean it wasn't a can such as you often find opium in, it wasn't brass or a copper

(Testimony of Okla W. Johnson.)

can, it was a tobacco can that had all of the letters burned off. I remember that very definitely, that is what this is, and that is as far as I can go with the identification.

Q. After this transaction that you had with Colbert and Arturo Leyvas that you just mentioned, what next took place in this investigation?

A. Leyvas apparently went out of town, because we were unable to get in touch with him for several days, and on November 6th we did make contact with him and Frank Colbert told me to come to his room.

Mr. Primock: I am going to object to what Colbert said.

The Witness: Well, I went to Colbert's room in the Normandie Hotel and waited, and about 7:40 Leyvas knocked on the door and Frank went into the hallway.

Q. Which Leyvas was that?

A. Art Leyvas. [111]

Q. Arturo Leyvas?

A. Arturo Leyvas, yes, sir. Frank Colbert went out into the hall with him. They had a conversation out there and presently Frank came back in and in the presence of Leyvas said, "Have you got the money?" I said, "Yes, I have, here is a thousand dollars," and I opened my bill fold and handed Frank a thousand dollars. I said, "Go ahead and count it," which he did. While he was counting the money, Leyvas took a small piece of paper from his pocket and came over to me and got right up in my

(Testimony of Okla W. Johnson.)

face with it, and he said, "I got some heroin here I'd like to have you have. I think you can make some money with it, and here is a sample I am going to give you, I want you to try it or have somebody try it, and see if you don't want to get more of it, because I know you can make a good buy on this," and I told him I'd do just that, and he said, "Has he got all of the money?" And Frank said, "Yes, there is a thousand dollars," and he handed it back to me and Leyvas then said, "Well, Frank, you can come with me," and he and Frank left. I stayed in this room and there was about 45 minutes when Frank came into the room and had four cans of opium wrapped in newspaper and he had been in the [112] room just about a minute and we had the tape off of one can and was pulling the tape off to test it when there was a knock on the door, and Leyvas came in and he started to unwrap the others and wanted to show me what they were like, and I said, "No, I don't want those opened because the last time I had it opened it leaked out and got all over everything, and I didn't want them opened, I just wanted to test this one, and if it is all right, it will be good enough for me." The other cans, then, were not touched by me or by Colbert. They were in this paper when we received them, and this one can we had looked at, and then I paid Art Leyvas a thousand dollars right there and we had a further conversation then about the heroin and he told me that this man was going back to Mexico, that he was here with him, within a day or two, and then I ought to get in touch with him by noon the follow-



(Testimony of Okla W. Johnson.)

ing day, if I wanted an ounce of this at \$475, and he told me how good it was, and I could really make some money out of it, I ought to take it. Quite a conversation there about selling me on the idea of buying it and I told him I would let him know by noon the next day if I wanted to buy it. I then left the hotel with the opium and went to my [113] room where I got in touch with Agent Smith and turned the opium over to him and we were very careful not to touch those cans and they were later tested for fingerprints, and it had rubbed off, however, they didn't turn out, but we had the four cans tested for fingerprints, and so on.

Q. What became of this blue piece of paper that you said Arturo Leyvas——

A. Well, I put it in my pocket, of course, while he was gone, and I kept it there and did nothing with it until I got in touch with Mr. Smith, and I turned it over to him and initialed it.

Q. Turned that over to Mr. Earl Smith?

A. Yes, sir.

Q. I hand you Government's Exhibit 9 for identification and I will ask you to open the exhibit which is sealed, and tell us whether or not you can identify the exhibit.

A. There is my initials "O.W.J."—"7:45 p.m. 11-5-48."

Q. Now, is that the blue piece of paper—anybody else's initials on there?

A. Yes, sir.

Q. Whose?



(Testimony of Okla W. Johnson.)

A. I suppose this was Lorenz—Here [114] is “E.A.S.,” which is Earl Smith, and inside is the brown heroin such as comes out of Mexico.

Q. I hand you Government’s Exhibit 10 for identification, I will ask you to examine it and see if you can identify the exhibit, please.

A. This is being sealed with the tape, I have my initials on the tape, “O.W.J.” Here is “E.A.S.” for Smith on that, also there is my “O.W.J.” here and “E.A.S.” and “H.H.F.”—I think that must be some chemist’s markings. These are mine here. Here is my “O.W.J.” here and “H.H., Art. E.A.S.” That is my “O.W.J.” This is the paper they were wrapped in. It is of no significance, but it was all kept just as received.

Q. These are the four cans you got?

A. These are the four cans I received actually delivered from Frank Colbert. I paid Art Leyvas a thousand dollars for those four cans in Government money.

Q. And you turned that over to whom?

A. Mr. Earl Smith.

Q. At that time they had no stamps, revenue stamps on them?

A. No, sir, none whatsoever.

Q. And they had no permit from the Treasurer of the United States, did they? [115]

A. Beg Pardon?

Q. They didn’t have a form issued in blank for that purpose on the sale of narcotics issued by the Secretary of the Treasury of the United States?

(Testimony of Okla W. Johnson.)

A. No, sir; they did not.

Q. After the purchase of these four cans for a thousand dollars from Arturo Leyvas, what next did you do?

A. On the following morning I met Arturo Leyvas at the corner of Monroe and First Street here in the City of Phoenix. I had a conversation with him there about buying this heroin and he said, "Have you got the money?" And I told him that I did have, and he said, "Well, get in this car," and he, at that time was driving this beat-up '38 Chevrolet with License No. 55999 on it which Colimo had used on my first purchase from him. He drove me down the street one block, turned and drove a little over a block and parked at the entrance of Sears Department Store and double parked right there in the middle of the street, and meanwhile he had given me quite a talk about how I could cut this down, and he was going to furnish cutting powder as well as the heroin. He then picked up an envelope that he had somewhere [116] down beside the seat somewhere, I didn't see just where he got it, he just reached down with his left hand down low and came up with the envelope and he said, "I weighed out just the right amount of this cutting powder for you to use with this heroin so you can make some money out of it and you won't have to bother about going ahead and buying it here, and you can just cut it and go ahead and start selling it. I told him that I didn't want to go any place buying

(Testimony of Okla W. Johnson.)

that powder and I was glad he was furnishing it for me and gave him a little talk there which made him feel good about furnishing the powder, and he pulled out another envelope in which he had some heroin and which he opened up and showed me the heroin and incidentally, one of these, maybe both envelopes, was some blue paper, something similar, perhaps the same in which the sample of heroin was given to me, and he then handed me this heroin. He said it was real brown and he kept telling me to cut it and make a pretty good color and I would make some money out of it. I paid him at that time we were parked there. I put the heroin inside of my shirt pocket and we drove around about three blocks and he come back and let me out at the hotel on Third Street. [117]

Q. What is the name of that hotel?

A. Normandie.

Q. How much did you pay him?

A. I paid him \$475.

Q. What kind of a package was it in, did you say?

A. Either the mixing powder or that powder was in a blue envelope. That was just about the same as——

Q. Then what took place after that transaction with this heroin?

A. I took it immediately to my residence, got hold of Agent Smith and turned it over to him.

Q. Then what took place after you turned that

(Testimony of Okla W. Johnson.)

heroin over to Mr. Smith; what was your next activity in this case, Mr. Johnson?

A. I don't recall there was any more at that particular time.

Q. Any the next day, or whenever it was?

A. On November 7th I met Arturo Leyvas at the Avalon Bar, which was down on the main street here in Phoenix, and at that time he told both Frank Colbert and I that he was leaving for ten or twelve days, and that if I needed anything from him I'd better buy it now because he was not going to be available, and I told him that I was pretty well fixed right now, I had both mud and heroin, such as [118] we had always referred to it, and I didn't think I'd need anything. I asked him if he would not give me a phone number or something in case I needed to get hold of somebody, I could get hold of someone while he was gone, and he said, "If you need anything, Frank knows how to get in touch with Connie." He was referring to his common law wife, Connie Duarte.

Mr. Primock: I move that it be stricken, stating a conclusion of the witness.

The Court: Oh, it may stand.

Q. (By Mr. Thurman): Did you ever contact Connie Duarte?

A. Yes, we did. Frank Colbert had a couple of conversations with her and I didn't talk to her in the beginning of this transaction that we had with Connie Duarte. However, on November 14th, Frank

(Testimony of Okla W. Johnson.)

Colbert got in touch with me about 2:45 in the afternoon, and I met him at the Normandie Hotel and we sat on the steps down near the street and we sat there talking when Connie Duarte came up to us. She approached the two of us sitting there on the steps and she immediately said, "Hello, Johnnie," and said, "Art has told me about you," and Colbert had made some sort of an introduction and she just passed it off that she had been told [119] about me, and that was all that was said about that. She immediately started telling Colbert and I what a tough time she had had in trying to get hold of some heroin for me. Things didn't work out very well on her trip, and she said she had been to California and she didn't know whether she had been tailed away from here or whether her tracks had been picked up after she got to California, but they shadowed her up there and almost caught up with the fellow that she had to buy the stuff from, and he didn't permit her to bring back but just a small amount of heroin. This heroin, she said, was good white stuff and her husband had been dealing with this fellow for a long time and they were just like that (indicating by holding two fingers close together), and I could depend on it being strong, and she had brought back about half a piece and she would sell me that for \$325 if I wanted it to tide me over until the rest of it could come in, and it should come in in about two or three days. I argued with her quite a little about the price there and how I

(Testimony of Okla W. Johnson.)

was going to get it and how I was going to take care of my customers with it, and she, after that, said, "I will go up and get it right now if you need some to take care of your customers, and we can [120] have it. That is all there is." I said, "I will take it if you will tell me it is good strong stuff," and I said, "If you will guarantee me that." She said, "How do you want me to get it? Do you want to send Frank up for it?" I said I didn't care about going, Frank could go. I said, "We can go out and meet you somewhere." She said, "I don't want either one of you to come to the house now, I have a lot of company." I said, "We could wait here or go to any other place." She said, "You wait right here, I will be back in just a few minutes, possibly twenty at the very outside. She came walking up the sidewalk just as she had before and approached us while we were sitting there on the steps. In her hand she had what looked like a package, you might say, of Kleenex. She was holding it up to her nose as though she had a cold, and she came up to us in a rather loud, about a terrible cold she had, and approached us right there on the sidewalk and said, "Have you got the money ready?" I said, "Yes, I have." I pulled out my billfold, counted out the money and just folded it up and handed it to her as I sat there near the sidewalk on the steps of this hotel, and she just opened this Kleenex up and handed me the package. I picked it out of the middle. I [121] said, "Is this all of it now?" And



(Testimony of Okla W. Johnson.)

she said, "This is it. It is about a half a piece," which should be about half an ounce. She said, "I am not even going to count your money, I will take your word for it," and she just flipped with her hand, she said, "I am going to get back to my company," and she took off and I looked around the corner and saw her driving the Chevrolet with the Louisiana license as she drove away. I then got in touch with Agent Earl Smith and turned this heroin over to him that same afternoon.

Q. Going back a little, Mr. Johnson, I want to have you look at Government's Exhibit 13 marked for identification, and see if you can identify it.

A. This is the cutting powder. This has been sealed, no doubt, by the chemist in this cellophane bag here probably, to protect it from moisture. This little envelope is the one that contains the heroin, very brown.

Q. Can you identify it; where did you get it?

A. This is the one that he delivered to me, that Art Leyvas delivered to me from the old '38 Chevrolet sitting in front of Sears here in downtown Phoenix at 11:07 a.m. on the 6th of November, 1948.

Q. That is the same time you got the [122] cutting powder?

A. That is the same time I got the cutting powder. He handed them both to me. This was the regular envelope. It has been sealed here, no doubt, to keep it from leaking out, but this was the regular envelope just as this is.



(Testimony of Okla W. Johnson.)

Q. You turned that over to Earl Smith?

A. I turned it over to Earl Smith, yes.

Q. And at that time there was no Internal Revenue Stamps on them, neither did they have any forms issued by the Secretary of the Treasury?

A. None that I saw.

Q. Did they furnish you with one?

A. It would be the other way around. They would insist on getting one from me if it had been done in the legal manner.

Q. You did not furnish them one, did you?

A. I did not furnish them one, no, sir.

Q. With respect to Government's Exhibit 12 for identification, I will ask you to examine that exhibit and see if you can identify it.

A. This was later wrapped up such as it is now inside of here. I put my initials on here. It is a little difficult to get it to stay. I put it also on this paper. I received this at 3:57 p.m. on 11-14-48. There is my initials. [123]

Q. How did you receive that?

A. I received this from Connie Duarte, alias Connie Leyvas, on that afternoon in Phoenix, Arizona.

Q. You furnished them with no stamps?

A. No, sir; I furnished them with no form.

Q. And now look at the other package that was contained in the exhibit and see if you can identify it.

A. I can.

Q. All right.

(Testimony of Okla W. Johnson.)

A. This is the package that I received from Frank Colbert on the 13th of November, 1948. This is a small amount of opium wrapped up in a little bit of cellophane.

Mr. Primock: I am going to object to the witness testifying what the package contained.

Mr. Thurman: Just identify the exhibit.

A. Yes.

Q. Where did you say you got that from?

A. I got this from Frank Colbert on the afternoon of the 13th of November, 1948, and this is a small amount of powder.

Mr. Primock: We object to the witness testifying——

Mr. Thurman: Just identify the exhibit. [124]

The Court: He said it was a small amount of powder. You wouldn't need an expert to tell you the amount.

The Witness: Which I also received from Frank Colbert at the same time and the same place.

Mr. Thurman: And who did Colbert get this from, did you say?

A. I didn't say; we had not covered that.

Q. With respect to this package that you have just examined and that you say you got from Mr. Colbert, the upper left hand corner is "Ex. 13-A," what can you tell us about that?

A. I took Frank Colbert out to the vicinity of 1030 East Moreland on this afternoon, and I let him out about a block from the house.

Q. What house was that?

(Testimony of Okla W. Johnson.)

A. 1030 East Moreland, which is the house of Arturo Leyvas. He went to the house, went in, and after a time he came out and he started walking back toward the car when Alicia Duarte, the daughter of Connie Duarte, came running out of the house and called Frank back. Frank went back, went into the house again, and they apparently had another conversation, and he came back to me and handed me these two exhibits at that time. I have some further testimony there that just [125] occurred to me.

Mr. Primock: I object to him making those remarks.

Mr. Thurman: What remarks?

The Court: Yes.

The Witness: It is relative to this.

Mr. Primock: Let counsel ask you the questions.

Mr. Thurman: I will ask you the questions. Do you have any further evidence you would like to tell the Court and jury concerning that exhibit, Mr. Johnson?

A. At the time Connie Duarte delivered to me \$325 worth of heroin, Colbert and I were both in conversation with her and Frank said, "It was mighty nice of you to leave that stuff with your daughter Alicia so I could get fixed up while you were gone, and that was just enough to take care of the need I had for it at that time." She said, "That is all I have, but I told her to give it to you if you came out, that you might need it."

(Testimony of Okla W. Johnson.)

Q. (By Mr. Thurman): After that particular transaction that you just mentioned, what next did you do in the investigation of this case, Mr. Johnson?

A. On the afternoon of November 17th, Frank Colbert telephoned — dialed the telephone 96327 and he had held a conversation. [126]

Q. What was that phone number?

A. 9-6327. He called then in my presence. I saw him dial it, and that, incidentally, is the——

Mr. Primock: Just a moment, I object to telling incidentally what anything is.

A. That is a restricted number of Arturo Leyvas at 1030——

Mr. Primock: I move that it be stricken, not the best evidence, and I also wish the Court would admonish this witness to testify only to——

The Court: Did you try to find the number in the directory? A. Yes.

Q. You could not find it? A. No, sir.

The Court: All right.

Mr. Thurman: You say Mr. Colbert dialed No. 9-6327? A. Yes, sir.

Q. All right, then what happened?

A. I received another call a little later from Colbert. I was down town waiting, expecting a call from Connie, which I didn't get. Colbert called me. I went to his room in the hotel, and about 8:30, Connie knocked on the door and Colbert let her in. Connie said Art was in bed with a [127] bad knee and he had been out on a trip and had

(Testimony of Okla W. Johnson.)

got a lot of trouble with his knee and he couldn't come down town at all to make any kind of a deal," and Colbert said in her presence and in my presence that she had told him that the heroin would be \$625 an ounce, and I held quite a conversation with her at that time about the price of it and whether or not I could make any money on it, and I had lost money on the brown heroin that I had bought because nobody liked it. In other words, I tried to get a lower price for this heroin, for \$625 an ounce. She said she couldn't make any kind of a deal at all and if I wanted to do anything about it I would have to talk to Art. I said, "Well, I am willing. Can he meet me somewhere, or what can be done?" She said, "I don't see anything wrong in taking you out to the house. If you want to go down, it is all right with me." I said, "It is perfectly all right with me, I will go," so we went out, got in her car, and another thing that happened here, before we went out there, Connie had told me that she had seen Earl Smith across the street in a cafe, and at that time I said, "Well, Connie, I am not going to have anything to do with this at all if he is around. I know the heat is on, and if he is [128] following you, I am not going to make any kind of a deal at all," and she started talking quite a bit more then and quite a lot faster, and she said, "Well, now, he isn't following me around, I don't think that he knows me, by face only when he sees me. I don't think he was following me. He just happened to

(Testimony of Okla W. Johnson.)

be in there having a sandwich, I have no doubt it is just an accident," and I let her convince me it was perfectly all right, and then I let her take me up there to the house at 1030 East Moreland. She drove in a circuitous route among the streets, and she told me she didn't know where it was but that she was willing to take me there. Of course, I knew where it was but I paid no attention to the streets. We arrived there and found Art Leyvas in the front bedroom with a lot of pillows under his knee and I went and sat down in a chair beside the bed, and I had a conversation for quite some time, and he told me that his knee had been broken while he was in the penitentiary and that he had had wires put in it, and every now and then, periodically, it gave him quite a lot of trouble, especially when he was out and had a lot of exposure, and he said he had been down in Mexico and the floods had been pretty bad down there, and they had been having quite a [129] time getting the stuff out, and that is why his knee was so bad trying to go through the hardships trying to get narcotics. I told him I felt like \$625 was a quite a little in view of the fact that I had not come out so well on the other deal, and he told me that he would give me a little extra to make up for that if I would go ahead and take an ounce, and I then told him I would, and he called Connie. He said, "Connie, fix up a piece for Johnnie," so I heard her then rattling around in the kitchen and then she came into the room, a large round



(Testimony of Okla W. Johnson.)

table they had in their living room, sort of a coffee table, and she put an envelope on there that had quite a bit of powder in it and she took a nail file and started dipping this powder out and then putting it into another envelope. She fixed up what she said was a piece, and came in and handed it to me. I looked at it and asked her if that was a full piece and she said there was a little extra there, that she had put in some more because that is what Art had told her to do. We had a little more conversation there about opium and Art told me that because they had had so much trouble getting it, he was going to have to get \$275 a can if I only bought one or two cans, but if I bought a five can deal, [130] he would still make it for \$250. He did make this statement: He said, "You know, I brought that back from Culican, Mexico." He said, "I didn't make but \$50 on each piece because it is so high." Just before I left, Art said, "Are you going to see Frank Colbert?" I said, "I expect I will. I haven't seen him in a couple of days and I do expect to see him." He said, "I had Connie fix up a couple of shots for Frank," and she placed some more heroin in a cellophane bag and handed it to me just like she handed the other, and I then paid Art the money as he lay there in bed. I counted out \$625 in Government funds and gave it to him. After leaving, I got in touch with Agent Earl Smith and turned the evidence over to him.

Q. Handing you Government's Exhibit 14



(Testimony of Okla W. Johnson.)

marked for identification, I will ask you to examine the exhibit and see if you can identify it.

A. There is my "O.W.J." right there.

Q. You can identify it?

A. Dated 11-17-48, and I also have the paper that she wrapped it in, dated, and my initials appear on it also.

Q. Just which bag is that that she gave you?

A. That is the one I paid \$625 for. The small one also has my initials on it, and this is the [131] one that Connie gave me at Art's direction. It was supposed to be for Frank Colbert, and there is my initials on that.

Q. Those are the two exhibits you mentioned in your testimony?      A. Yes, sir.

Q. And did you have one of those forms issued by the Secretary of the Treasury to make a purchase of that?      A. No, sir.

Q. Any Internal Revenue Stamps on there?

A. There were no stamps whatsoever.

Q. After receiving the two exhibits you have just identified, what next did you do in your investigation of this case with respect to the defendants mentioned therein?

A. The next thing that happened was quite some time later. We had had considerable trouble with meeting some of these people. They seemed to be out of town quite a bit. On the night of January 12th I learned that the defendant Arnold Enriquez, or Arnold Pirata, as I knew him during that time,

(Testimony of Okla W. Johnson.)

was going to the fights at Madison Square Garden, and we were trying to get in touch with him, but not having had any luck getting hold of Art in the last few days, I went to the fight and took [132] Frank Colbert with me and we saw the fights, and managed to see Arnold there, and managed to let him see us there, and after the fight, Frank Colbert—during the fight had gotten to him and told him he wanted to talk to him after the fights, and they met on the outside practically clear of the crowds just gathering there, and they walked behind an automobile that was parked near the curb there where they held a conversation. I didn't hear any of that conversation. On the following day, which was January 13th, I went to Pirata's Club, which it was called at that time, having been changed over from the Pan-American Club meanwhile, where I had a conversation with Charlie Pacheco, and I asked Charlie Pacheco if he would call Arnold for me.

Q. That is Arnold Enriquez?

A. Arnold Enriquez, Arnold Pirata, as I called him, Pirata. I asked Charlie Pacheco if he would telephone Arnold Pirata and see if he would come down to the Club, I wanted to talk to him. Charlie Pacheco did call and he came back about a—

Mr. Primock: I am going to object to what Charlie Pacheco said, it is hearsay.

Q. (By Mr. Thurman): Just tell what happened after Pacheco made this call. [133]

(Testimony of Okla W. Johnson.)

A. This was about two o'clock, or somewhere in that vicinity. I stayed at the Club waiting, and in about 4:15 Arnold Pirata and Joe Martinez came into the Club. Arnold sat down beside me and said, "Hi, Johnnie," and sat on the stool, and Joe Martinez said, "I am going to get a sandwich," and he went over, I suppose, to a restaurant there. I just saw him go out of the Club. Pacheco and the defendant Pirata and I sat there for a few minutes. We had a beer, we ate a couple of hard boiled eggs, and during that time we had a conversation about the sign that Pacheco was getting from Pirata to put it up in front, and how much it was costing to hang it, and just things in general were discussed while Charlie Pacheco was there. Charlie Pacheco went on up to the front and started waiting on other customers and we started up, and I started talking with Arnold. I told him I had talked to some customers by long distance and I needed to get hold of some stuff right away, and I had not been able to get hold of Art Leyvas at all, I didn't know what I was going to do if I couldn't get hold of something. He said to me——

Mr. Primock: Who said?

A. The defendant Pirata said, "There isn't [134] anything in town, and you will not be able to get anything until Art gets back." He said, "I'd like to help you, but there isn't anything I can do until the stuff gets here." I then said to Arnold, "Will it be possible to get a fun—100 fun jar to get to

(Testimony of Okla W. Johnson.)

my customer before that time so I can get it to him right away," and Arnold then said, "Have you called Connie?" I said, "I don't know her number," and he said, "Doesn't Frank know it?" I said, "Yes, Frank knows it, but he won't tell me, and I think he is giving me the run-around the same as Art, because I have not been able to get in touch with either one of them," and he said, "Well, do you know Connie?" I said, "Yes, I know her, she has had me out at the house," and he immediately said something to Joe Martinez, who had come back in the Club, in Spanish, and Joe Martinez said, "Johnnie, how about a game of shuffleboard," and Pirata then left the Club. We played two games of shuffleboard, Joe Martinez and I, and just as we were finished with the second game, Pirata came back in and he said, "Johnnie," he said, "I know that Art is going to be back tomorrow night. If you will be here between 5:00 and 5:30, I will see to it that Art meets you right here." I said, "I'll be here," and he said, [135] "Come on, Joe," and he left. So, on the following day, which was January 14th, I went to the Club at 5:00 o'clock, and when I got there I found that Colimo was there.

Q. That Jerez again?

A. Jerez. Colimo was there. We talked a few minutes, played with some of the machines, and Colimo said, "Come on, go with me." I said, "I can't go any place right now, I am waiting

(Testimony of Okla W. Johnson.)

for somebody.” He said, “Are you waiting for Art?” I said, “Yes, I am.” He said, “Well, Art is tied up and Arnold told me to come down.” I said, “Well, that may be so, but Arnold told me to be right here and Art would meet me, and that is what I am going to do,” and Colimo then said, “Why haven’t you talked to me, or why haven’t you done any of this dealing with me?” And, we had quite a long conversation there about why I had quit dealing with him, and I told him that I just didn’t care to deal with him any more, the crook, so I said, “I had been dealing with Art, and that is who I was going to talk to, and that is all there was to it. Well, he said, “Well, I will send Art over, then,” so he left the Club then and about 5:35 Art Leyvas came into Pirata’s Club and we went up to the bar, had a drink, and he asked me to come [136] across the room, and we sat at the table across the room where we had a talk, and I asked Art considerable about some heroin that we had been talking about, and he told me that he thought he was going to get some that he could sell for less than \$500, and I had told him I was interested, however, he told me it would be 30 or 40 days before he was going to be able to get any because of the flood in Mexico, and they just couldn’t get that kind of stuff out, and they have to go too far to get it, and there was too much trouble down there because of the flood, and then Leyvas said, “So Colimo said you didn’t want to

(Testimony of Okla W. Johnson.)

talk to him," and I told him why I didn't want to because he had tried to gyp us and that I had not been satisfied with dealing with him, I had been dealing with Art, and we wanted to continue dealing with him." I said, "That is the reason I got in touch with Arnold, I didn't want to get in touch with these other boys, I didn't want to deal with them any more." He said, "Arnold told me to contact you, but I was busy, and Colimo came down and he started to tell you and Frank Colbert you should not have got mad at him," and Leyvas told me that the mud was pretty hard to get at the time, the opium, [137] that because of the flood, and that he could supply anything up to eight or ten cans right now and that would be all that could be supplied at that time, and I told him that I could get along with three cans if it was going to run him short, and he said, "Well, it is going to cost you more because I will have to get more than \$250 unless you want to buy four cans." I told him then I'd take the four cans, and he started then telling me how much better the stuff was and that I would really have better results from this than I had before. He said, "I am going to be tied up a little bit, I am going to send Colimo down." He said, "Colimo is a good boy, but he takes some handling, and I can handle him. He will be here to meet you at 10:00 o'clock." I told him I hated to wait so long, I'd like to get it a little quicker. He said, "Be here at 9:00, and by 9:00



(Testimony of Okla W. Johnson.)

o'clock we can make a deal," and I left the Club at that time, and at 9:00 o'clock I arrived at the Pirata Club and waited, and at about 9:23, Colimo came in, approached me at the bar. I offered to buy him a drink. He declined. I said, "Am I to follow you?" He said, "I will go with you," and we walked out of the Club and got in a Government car, and he [138] directed me how to drive. He said, "Drive straight north on Sixteenth," and we drove for four or five blocks, and he said, "Turn right," and during this ride, well, he kept looking out of the windows and seeing if we were followed, and so on, and he directed me to drive about four or five more blocks, and I — It wasn't that far, because we went up on Nineteenth, it was three blocks, and we turned right on Nineteenth Street and went down across Washington and went two or three blocks there. It was pretty dark, I didn't want to appear too obvious and see where we were going, but when we turned and started going east again and in about the middle of this block I saw a tree there, rather a small tree, and in front of it I saw a man that I had picked up with my headlights, and upon arriving near there, Art said, "Pull over by that tree" — Colimo said that, and Art Leyvas was standing there under the tree. Colimo opened the door and Art reached right down beside the tree and picked up a package wrapped in paper and got into the car. We had a little conversation there and he started taking the wrapper off and



(Testimony of Okla W. Johnson.)

opening—We opened all of the cans. He got a flashlight out, and Colimo had a little trouble getting it on, and he cussed him [139] out, told him he couldn't do anything. He grabbed the flashlight away from him and flashed it on and showed me the opening—He called my attention to it and told me it was filled to about three-quarters of an inch from the top. He said, "We keep this in the dirt when it is cool and there is enough room for expansion, and it won't run over the top." He gave me a selling point for not filling them full. As we talked, a car made a turn, came toward me with the headlights toward us, and I started to get the opium down, I was afraid somebody might be checking on us, and Colimo said, "You don't need to be afraid in this section," he said, "All of these people up here are on the alert and no law can start coming around, they just start whistling, and the deal would be perfectly all right." He said, "That happens to be my brother-in-law, and he happens to be making trips down here while we are making this deal." That car passed us twice while we were sitting there talking.

After I examined the opium, I had a thousand dollars in my other pocket, I had ten \$100 bills which I handed to Art Leyvas, and he started to count it, and he had the flashlight, so he just handed it over to Colimo, and he said, "You count [140] it," and Colimo counted it, and Art Leyvas said, "Say, there is something else I want to talk to you about."

(Testimony of Okla W. Johnson.)

I had talked to him previously about some New York connections I had. He said, "I wish you would get in touch with your New York connections and see if you can get some hot money." He said, "We could take that queer money into Mexico and buy a lot of opium with it," and he said, "I will split the profits with you and we will make some money on it." I told him I would see what I could do and talked to him there about five minutes along that line, and as I started to pull away, they got out of the car, of course, and I saw the Chevrolet with the Louisiana license parked up in the driveway of this place. I then went away. Colimo admonished me just before I left that I need not be afraid while I was in this section, but to be very careful when I got out across Washington and Van Buren. I went up to my residence and got in touch with Agent Smith and turned the opium over to him.

Q. I hand you Government's Exhibit 18 for identification and ask you to open it and examine the contents and see if you can identify it. How many cans did you say you purchased at that time? A. Four. [141]

Q. Can you identify those as being the cans that you received at that time?

A. Yes, sir. That one has my initials on it.

Q. That is all right, you can identify them for him again also on cross-examination.

A. This one has it, this one has it, yes, sir.

(Testimony of Okla W. Johnson.)

Q. And you turned these over to Earl Smith?

A. Yes, sir.

Q. They are practically in the same condition now as they were at the time you turned them over to Earl Smith?

A. They are, yes, sir.

Q. Except the leakage?

A. Yes, sir.

Q. And you furnished to them no Treasury permit to purchase it?

A. No, sir.

Q. And it had no Internal Revenue Stamps on it?

A. No, sir.

Q. Cancelled or otherwise?

A. No, sir.

Q. Now, can you tell us the next time you entered into the picture of this investigation?

A. Yes, sir.

Q. About when was it?

A. It was on the afternoon of January 29th, 1949. [142]

Q. What did you do at that time with respect to the investigation?

A. I was at the Pirata Club.

Q. Now, this was in January 29, 1949, this Pan-American Club, what was it named at that time?

A. That was Pirata's Club, or Pirata's Inn, I believe was the name that was on the outside. I don't know how it was registered, but it had an electrical sign outside, a neon sign on it "Pirata's Inn."

Q. Did you know the owner and operator of Pirata's Inn at that time?

A. Yes, sir.

Q. And who was it?

(Testimony of Okla W. Johnson.)

A. The owner was the defendant, Arnold Enriquez.

Q. All right. Now, on that date what took place at this particular place?

A. I had a conversation with Charlie Pacheco who was manager of that Club. I told him I had not been able to see any of the boys around, I couldn't find Arnold or Art or Colimo, and I wanted him to get in touch with somebody and asked him if he knew where I could call some of them, or how I could get in touch with them, and he called his son, young Nacho, and asked him to call [143] the house of Art Leyvas.

Mr. Primock: I object to that as hearsay, your Honor.

The Court: Yes, that is probably so.

Mr. Thurman: I know it is difficult, Mr. Johnson, but just, when they are not in the case, that is, the defendants, why——

A. Well, anyway, pretty soon Nacho called me to the telephone and said, "Joe wants to talk to you." Anyway, I went to the telephone, and he said, "This is Joe Martinez."

Q. Did you recognize his voice?

A. No, I didn't recognize his voice. He said that, and I said——

Mr. Primock: I am going to object to any further testimony as to what happened on the telephone, as long as the witness says he could not recognize the voice as being that of Joe Martinez, on the ground that it is hearsay.

(Testimony of Okla W. Johnson.)

The Court: Well, that may have been verified later. Go ahead.

A. In about 30 minutes Joe Martinez came to Pirata's Club, and he came over and sat down at the table where I was sitting, and we had a conversation, and he said, "What is the matter, Man?" I told him, I said, "Well, I am just out of [144] stuff. I am trying to get hold of some in the City, I can't get it." I said, "I thought I'd call you and see what you can tell me," and he said, "Don't you know all of those fellows are in jail in California?" I said, "I found it out, I hadn't known about it before." He said, "You should not call the house at this time, they probably have the phone tapped out there." I said, "I didn't know that before, I couldn't help it, because we had called Connie so many times, and he said, "Well, that's the way it is." I said, "Well, I need to get hold of something right away, I need it bad, and I want—I am going to lose my customers if I have to put up with all of this being pushed around and not being able to get as much as I wanted, however, I'd like to buy short, in other words, a small quantity, until I can get hold of these fellows, get back into town. He said he didn't have any short stuff at all, but he did know about some cans that were in town, he believed he could do something about it. He said it was pretty high. I said, "How much is it?" And he said, \$350 a can." I told him, "That is too much for me." I pulled out my billfold and I had \$270 in

(Testimony of Okla W. Johnson.)

my billfold. I said, "That is all I've got, I can't do anything better than that," and he said, "Well, I've got \$130 here that I will put it in with you and you can pay me back later if you want to get a can." I told him I wouldn't do that, it was just too much money, I was not going to pay that kind of money for it, and he said, "Wait a minute," and he went over to the telephone. I didn't hear what was said, but he came back to me in just a minute and he said, "Say, I misunderstood that fellow." He said, "The price is \$250 a can." I said, "Well, that's just fine, I am fixed up just right. I will take it," and he said, "Where do you want the package at?" I said, "It doesn't make any difference to me." He said, "I will have to go get it." He said, "It would just take me a few minutes." I said, "Well, as long as you are going after it, you might as well take the money with you, and I paid him \$250 in the restroom of Pirata's Club, which was about 6:25 I had arrived, and it was just a few minutes later that he left the Club, and as he left, he said, "I will go get the can, I will bring it back and put it in your car, and I will come in and tell you about it." I said, "I don't care much about dealing around the Club anyway, it is a little hot." I said, "Suppose I drive off some place [146] and you can meet me. You tell me where to go." He said, "Go out 24th Street and wait—Go out to Van Buren and wait just on the other side of 24th Street," which I did. I drove out there in a Government car, parked, and in about 15 minutes he



(Testimony of Okla W. Johnson.)

came to the car, opened the right hand door, got in, sat down beside me and handed me the can of opium. He stated that he just had gotten a wire at the house from Arnold, and that Arnold said to get his ass out there to California and get them a new lawyer, and then he left the car and said he had to get going right now, and that is the last I saw of him.

Q. What did you do with that exhibit?

A. I turned it over to Mr. Smith.

The Court: Well, we will suspend here until 10:00 o'clock in the morning. Keep in mind the Court's admonition.

(Thereupon a recess was had at 4:35 o'clock, p.m.) [147]

10:00 o'clock a.m., April 27, 1950.

All parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:

The Court: Call your next witness.

Mr. Thurman: Mr. Johnson was on the stand, I believe, your Honor.

The Court: All right, come forward.

OKLA W. JOHNSON,  
resumed the witness stand and testified further as follows:

Mr. Thurman: Please read the last question?

(Thereupon the last question and answer was read by the reporter).



(Testimony of Okla W. Johnson.)

Direct Examination

(Resumed)

By Mr. Thurman:

Q. I hand you Government's Exhibit No. 20 for identification and I will ask you to examine it, Mr. Johnson, and see whether or not you can identify the exhibit.

A. Yes, sir. That is my initials, O. W. J. 1-29-49.

Q. And that is the can that you received from who on that date?

A. Joe Martinez, here in the City of Phoenix.

Q. And it was turned over to Mr. Smith? [148]

A. That is right.

Q. Any stamps on it; did you have one of those forms issued by the Secretary of the Treasury for the purchase of that?

A. No, sir, I did not.

Q. Did you participate any further in this investigation, Mr. Johnson?

A. Yes, sir.

Q. And in what way?

A. Well, I had another conversation or two before the arrests were made with the defendants.

Q. With this defendant here?

A. Not with this defendant. I had a conversation with Colimo—Arturo Jerez.

Q. Where did that conversation take place?

A. At the Pirata Club at Sixteenth and Washington.

Q. About what date?

(Testimony of Okla W. Johnson.)

A. It was on February 3d, 1949.

Q. And who was there at that time?

A. Just Colimo and I were talking there. There were others in the bar, but we were separated from other people.

Q. What time of day was it?

A. I just say in the afternoon. I don't have any special time noted. I know it was fairly [149] early, probably 2:00 or 2:30 in the afternoon.

Q. What did you say to him and what did he say to you in substance, with respect to this case?

A. We were sitting at one end of the bar having a beer and talking, and I said, "I hear you fellows had a lot of trouble up on California." He said, "Yes, we sure did." He said, "We made bail out there."

Mr. Primock: I am going to move that that be stricken as immaterial and object to further questioning along that line, your Honor.

The Court: Well, I think that part of it is, what happened to them in Calfiornia. There might be other parts that might be material. They might have been acquitted in California.

Mr. Thurman: It is not particularly about the arrest, that is simply an item that——

The Court: Well, I know, but that item probably the jury should not hear.

Mr. Thurman: Withdraw the question. You may cross-examine.

(Testimony of Okla W. Johnson.)

Cross-Examination

By Mr. Primock:

Q. Is Okla W. Johnson your correct name?

A. Yes, sir.

Q. And what names were you going under when you were dealing with these defendants?

A. I used my true name, only I was called "Johnnie" about all of the time.

Q. Did you tell them your name was Okla Johnson?

A. Well, this membership card I got out of the Club was made out: "Okee Johnson." That is the way they spelled it.

Q. Were you introduced to them—Were you introduced to them as Okla Johnson or Johnnie Johnson, or how were you introduced to them?

A. They asked me my name for that membership card. I said, "Okla Johnson."

Q. Just a minute, please. You said earlier that somebody named Joe Araga introduced you to these people?

A. Yes.

Q. What name were you introduced to these people under, Okee Johnson, Okla Johnson, or Johnnie Johnson?

A. I think he said, "This is Johnnie," because there was no formal introduction, it was just a matter of meeting with these people. I don't believe the full names were actually brought [151] out at that time.

(Testimony of Okla W. Johnson.)

Q. Of course, these defendants didn't know you were a narcotic agent, did they? A. No, sir.

Q. Now, the first sale that you, or the first dealings you had with them, you said, was October 3d, '48? A. No, I don't believe I did.

Q. When was the first sale?

A. The 26th of September, 1948.

Q. The 26th of September?

A. I believe that is correct.

Q. You purchased then, you say, some marijuana cigarettes? A. That is correct.

Q. What did you do with those cigarettes?

A. I turned those in.

Q. You turned those in to who?

A. To Mr. Smith, yes, sir.

Q. Now, Mr. Johnson, where did you get the money that was used to purchase all of these narcotics?

A. It was supplied by the Government.

Q. And how much money did you expend on this particular case?

A. I don't know, I haven't added it up. [152]

Q. Well, approximately how much money would you say?

A. I suppose I spent about \$5000 myself.

Q. And where would you get this money?

A. From the Bureau of Narcotics.

Q. From whom? A. From Mr. Smith.

Q. From Mr. Smith? A. Yes, sir.

Q. Mr. Smith authorized the expenditure of all this money? A. Yes, sir.

(Testimony of Okla W. Johnson.)

Q. And that was Government money?

A. It was Government money, yes, sir.

Q. Now, when you purchased on September 26th, 1948, when you went outside and purchased the cigarettes from Colimo, was Arnold Enriquez present?

A. He was inside of the Club, yes, sir.

Q. He was not outside where the purchase was made, was he? A. No.

Q. Now, on October 3d when you made your purchase from Colimo on the railroad tracks at Third Street, Arnold Enriquez was not present, was he? A. No, sir. [153]

Q. Now, on October 29th, when you made the purchase from Colimo in which you gave him \$300, I believe, Arnold Enriquez was not present, was he?

A. I don't think I ever gave Colimo \$300. What is the date?

Q. October 29th.

A. No, that was Arturo Leyvas.

Q. Arutro Leyvas? A. Yes, sir.

Q. All right. Arnold Enriquez was not present when that transaction took place, was he?

A. Not out there in the street, he was in the Club.

Q. He was not in your presence when that sale was made, was he? A. No, sir.

Q. Now, on November 6th, when you went to Colbert's room and you gave Frank Colbert a thousand dollars and Leyvas gave you some small

(Testimony of Okla W. Johnson.)

paper of heroin as a sample, and also gave you four cans, Arnold Enriquez, this defendant, was not present, was he? A. No.

Q. By the way, on that particular date those four cans you indicated that they were, the initials "H. H." and "W. C." alongside of yours when you indentified it. Whose initials was "H. H."?

A. I don't know.

Q. Whose initials are "W. C."?

A. I don't think it is "W. C." "F. C." would be Frank Colbert, and that is probably what is was.

Q. But you don't know anybody by the initials "W. C."? A. No, I don't think so.

Q. Now, on November 7th you met Arturo Leyvas on First Street and Monroe, and on that same day you gave him \$475 for some heroin. Arnold Enriquez, this defendant, was not present, was he?

A. No, sir.

Q. On November 14th, when you made your purchase on the steps of the Normandie Hotel from Connie Leyvas, this defendant Arnold Enriquez was not present, was he? A. No, sir.

Q. At the time when you went out to the house of Arturo Leyvas, when you talked about he had a bad knee and you gave him \$625, this defendant Arnold Enriquez was not present, was he?

A. No, sir.

Q. On January 14th, 1949, when you and Colimo met Arturo Leyvas under a tree and you gave him a thousand dollars for four cans, Arnold Enriquez, this defendant, was not present, was he?

(Testimony of Okla W. Johnson.)

A. No, sir.

Q. On January 29th, 1949, when you went into Pirata's Inn and Martinez came into the Club and you made a purchase from Joe Martinez, this defendant Arnold Enriquez was not present, was he?

A. No, sir.

Q. Now, who is Frank Colbert, is he a Government agent?

A. No, sir.

Q. Is he what you call an informer?

A. Yes, sir.

Q. Do you know whether or not he got paid for working on this case?

A. Yes, sir.

Q. And do you know how much he got paid for working on this case?

A. I don't know directly, no, sir.

Q. You didn't pay him personally?

A. I didn't pay him, no, sir.

Q. But you do know he got paid something?

A. I understood that he did, yes, sir.

Q. Now, Mr. Johnson, you first worked on Art Jerez, or Colimo, as he is known, you worked on him until you made a purchase from him, is that correct?

A. Yes, sir. [156]

Q. And then I believe you stated when you had enough purchases on him, from him, you then turned down any further purchases from him?

A. That is correct.

Q. Then you went to work on Arturo Leyvas, did you not?

A. Yes, sir.

Q. And you worked on him until you had made



(Testimony of Okla W. Johnson.)

enough purchases from him and then you quit him, is that correct?

A. No, I never did quit him, I dealt with him from then on.

Q. And from him you just transferred your affections to Connie Duarte and worked on her until you had several sales with her, is that correct?

A. I made some sales, I was not transferring any affections.

Q. But you did make some purchases?

A. That is correct.

Q. And after you had Connie Duarte, you transferred your labor, we will say, to Joe Martinez until you had made some sales from Joe Martinez?

A. I did.

Q. Then you went to work on this defendant Arnold Enriquez, didn't you? A. Yes. [157]

Q. But you could not make any sales or purchases from him, could you?

A. I didn't make any, no, sir.

Q. You tried, did you?

A. Yes, sir.

Q. You sent other people to this defendant Arnold Enriquez, to make purchases, didn't you?

A. No, I did not.

Q. Didn't you send Frank Colbert to Arnold Enriquez?

A. That was for me to make purchases, it was not for him to make it.

(Testimony of Okla W. Johnson.)

Q. Yes, but you sent other people, didn't you?

A. Only Frank Colbert.

Q. And didn't he tell Frank Colbert that he was not dealing with this kind of stuff?

A. Not to my knowledeg, he didn't.

Q. Didn't Frank Colbert tell you that?

A. No, sir; Frank Colbert told me there wouldn't be anything until Friday after that conversation with Arnold Enriquez.

Q. You recall, do you not, testifying in the preliminary hearing on March 28th, 1949, in Phoenix, Arizona? A. Yes, sir.

Q. And didn't you, in answer to this question by counsel for the defendant, you gave this answer: "Q. This Frank Colbert, did you send him to him? A. Yes, sir." Did that take place?

A. I expect it did.

Q. "Q. You did, and Mr. Frank Colbert reported to you just what you have testified to, that the man said he was not engaged in the business at all? A. That was on one occasion on the night of January the 12th as the prize fights—Q. Yes. A. —and I told him to go over and ask Pirata if we could buy anything that night. That was the only occasion. Q. You were not successful in obtaining anything— A. No. Q. On that occasion? A. No. That is true." Now, did that take place?

A. Yes, I believe it did.

Q. I will ask you if at the same hearing these questions and answers didn't take place: "Q. Was

(Testimony of Okla W. Johnson.)

that the first time that you had ever met Mr. Enriquez? A. No, sir."

A. What date was that again, there?

Q. The 13th day of January, 1949.

A. Yes, sir.

Q. "Q. You had met him on other occasions?

A. I had. Q. But you had not approached him concerning any narcotic transactions? A. That is right. Q. Had anybody in your presence prior to that time [159] approached him concerning any narcotic transaction? A. Yes, sir. Q. And on those occasions he informed the party in your presence that he did not have any of that kind of stuff, wasn't dealing in it? Isn't that a fact? A. Well, I didn't hear all the conversation, but I gather that is what was said at that time."

Mr. Thurman: Just a minute. I naturally supposed he was trying to impeach this witness, but there is no foudation laid for this particular cross-examination, the proper foundation has not been laid, so I object to any further.

The Court: Yes. I don't see it. The objection is sustained.

Q. (By Mr. Primock): Now, Mr. Johnson, you stated that on January 29th, 1949, Arnold Enriquez was the owner of Pirata's Club.

A. As far as I knew, yes, sir.

Q. Now, isn't it a fact that Nacho Pacheco was the owner under a beer license at that time and place at that club?

(Testimony of Okla W. Johnson.)

A. I didn't check his license. I don't know. I knew he managed the place, and I had conversations with him about Arnold coming down and fixing the heater and fixing this and that, because it was his building. Now, that is all I know about it.

Q. Then you don't know, and when you said under direct examination that Arnold Enriquez was the owner of the bar, you were just guessing, weren't you?

A. No, sir, that was my understanding.

Q. It was your understanding?

A. Yes, sir.

Q. And you won't definitely state under oath at this time that Arnold Enriquez was the owner of that property at all?

Mr. Thurman: I object to that as immaterial.

A. As far as I know, he is.

The Court: Wait a minute. It is argumentative.

Mr. Primock: That is all.

Mr. Thurman: That is all.

(The witness was excused).

Mr. Thurman: I may have to recall this witness. That is all for the present. Mr. Sandoval.

## MIKE SANDOVAL

was called as a witness on behalf of the Government, and being first duly sworn, testified as follows:

## Direct Examination

By Mr. Thurman:

Q. Please state your name?

A. Mike Sandoval. [161]

Q. And where do you live, Mike?

A. Well, I live in El Paso.

Q. During the year '48, where were you living?

A. What year?

Q. '48. A. '48? In Tucson.

Q. Tucson, Arizona, and during the year '48 did you have occasion to come to Phoenix, Arizona.

A. I remember I came in Christmas, I don't know whether it was '48 or not.

Q. Do you know Arturo C. Leyvas?

A. Yes.

Q. Do you know Arnold Enriquez, this defendant? A. Yes.

Q. And you know Ray C. Leyvas? A. Yes.

Q. And you knew Connie Duarte? A. Yes.

Q. Arturo Jerez—Jerez. How do you pronounce that?

A. I know Arturo Jerez, I knew him by "Colimo."

Q. You knew him by "Colimo"? A. Yes.

Q. You know Joe Martinez? A. Yes.

Q. Do you know where Arturo C. Leyvas was living [162] during the latter part of the year '48?

(Testimony of Mike Sandoval.)

A. He lived on East Moreland Street, here in Phoenix.

Q. Were you ever there during that year at the home of Arturo C. Leyvas? A. I was there.

Q. About when did you arrive there?

A. I came here from Tucson on Christmas Day.

Q. Huh? A. On Christmas Day.

Q. On Christmas Day? A. That is right.

Q. Who was there on Christmas Day when you got to the home of Arturo C. Leyvas, do you remember? A. Well, I didn't come to his home.

Q. You didn't? A. No.

Q. Did you ever come to his home during that year?

A. No. On Christmas Day I went to a party at Ray Leyvas' house and there I met Arturo, his brother, and he told me, "What I was doing." I told him I just quit a job at the University and I came here. He asked what I was going to do. I said, "Well, I plan to look for a job here," and he said, "Where are you living?" I said, "Well, I am [163] going to look for a hotel." He said, "Well, come down to my house, you can stay there."

Q. Did you go to his house?

A. Next day I went to his house.

Q. About when was that, Mr. Sandoval?

A. Well, 26th, I think.

Q. About the 26th of December, '48?

A. December, '48.

Q. And then how long did you stay there?

(Testimony of Mike Sandoval.)

A. Well, I stay there altogether must be about 11 or 12 days off and on.

Q. Off and on? A. Yes, sir.

Q. And did you stay there during the year '49?

A. '49, yes.

Q. And during the time that you were at the Leyvas home here in Phoenix, Arizona, did you see the defendant Arnold Enriquez there?

A. I saw Arnold Enriquez about, I would say, three or four times.

Q. And what did you do—Who was there when you saw Arnold Enriquez there?

A. You mean at Arthur's house?

Q. Yes.

A. I didn't see him at Arthur's house. I saw him at Pirata's place, I used to go down drinking there. [164]

Q. Did you ever see Arnold Enriquez at Arturo Leyvas' house? A. Yes, I saw him there.

Q. When?

A. Well, it was before I went to San Diego.

Q. How long before you went to San Diego?

A. I don't remember the date, but I know that one night they decided was going to the fights in Los Angeles. We went on the 25th, I think.

Q. How long before the 25th of January, 1949, did you see Arnold Enriquez at Leyvas' house, at Arturo Leyvas' house?

A. Before I went to San Diego?

Q. Yes. A. About three or four days.



(Testimony of Mike Sandoval.)

Q. And what did they say at that time; just who was there; who was there at that time?

A. Arnold and two Leyvas, Colimo, and Joe Martinez and I.

Q. And did Arnold Enriquez come in that day?

A. Yes.

Q. And what did they do that day at the house there?

A. You mean what they were doing before he came?

Q. Yes. As far as you know, tell us what they were doing.

A. Well, Arturo and Connie and Colimo and Martinez, they were smoking opium there, must have been about eight, I guess, something like that, then when Arnold come in the house——

Q. Who? A. Arnold.

Q. Arnold came in the house?

A. Yes, that is right.

Q. Then what happened?

A. Then he just said, "Hello." I said, "Hello." And just went back to the room.

Q. Who went back to the room?

A. I did, I lived at the back room, back front room and bath room, and another room, and I live in the back room.

Q. You went back in the back room, then?

A. Yes, sir.

Q. And then what happened?

A. What happened?

Q. Yes, what took place then?

(Testimony of Mike Sandoval.)

A. Well, I guess they continued smoking, I guess.

Mr. Primock: I move that that be stricken, stating a conclusion of the witness.

The Court: Yes. He said he "guessed" they continued smoking. [166]

Mr. Thurman: He said he went back to the room, I was trying to get the next step, that is all.

The Court: All right.

Q. (By Mr. Thurman): Now, you say you made a trip to San Diego? A. Yes.

Q. Did you discuss that trip to San Diego with any one of these defendants prior to the time you left?

A. Those guys never said anything in front of me, they always went to the front room. I lived at the back room, and when they said they was going to the fights, they invited me to go to the fights with them. I went with them.

Q. And who told you they were going to the fights? A. Arthur Leyvas.

Q. Who? A. Arthur Leyvas.

Q. And just tell us what he told you about that.

A. Well, they were planning they were going to the fights to Los Angeles and then they was talking, Connie and Colimo, at breakfast time, one morning, and he said—they say they was going to see a friend of his in Tijuana.

Mr. Primock: Now, I am going to object to this as [167] immaterial.

(Testimony of Mike Sandoval.)

The Court: Oh, no, that might be very important.

Q. (By Mr. Thurman): Did they say what they were going over there for to see, the fights?

A. Well, Arthur was talking to Connie about seeing this man. I asked him if they was going to bring some stuff.

Mr. Primock: I move that that be stricken as being an assumption of the witness.

The Court: All right, it may be stricken.

Q. (By Mr. Thurman): Who went with you in this car to California?

A. Well, Arthur, Colimo, I, Arnold and a fellow by the name of Manuel Gomez.

Q. What car was it you went in?

A. In Arnold's car.

Q. Arnold Enriquez' car? A. Yes, sir.

Q. What kind of car is it?

A. Cadillac, 1942, green car.

Mr. Thurman: You may cross-examine.

### Cross-Examination

By Mr. Primock:

Q. Mr. Sandoval, this night that all of these people were smoking opium, you didn't see [168] Arnold Enriquez smoke any opium, did you?

A. No.

Q. Pardon?

A. No, I didn't see him. He came in the house, but I didn't see him.

Q. On the morning at breakfast when Connie

(Testimony of Mike Sandoval.)

and Arturo were talking about going to see this friend, was Arnold Enriquez present?

A. No, it was only I and Colimo and Connie and Arthur.

Mr. Primock: That is all.

Mr. Thurman: That is all.

(The witness was excused.)

### VIRON ELKINS

was recalled as a witness and testified further on behalf of the Government as follows:

#### Redirect Examination

By Mr. Thurman:

Q. You are the same witness that previously testified in this case, Mr. Elkins, are you not?

A. Yes, sir.

Q. And during your connection with this matter did you meet Officers Rogers, Street, Meloche, Brown, Lorenz and Smith?

A. What was the first name you mentioned?

Q. Rogers, Officers Rogers—I haven't got his first name—Street, Meloche, Brown, Lorenz, and Smith.

A. Well, not Rogers and Brown, I don't remember, but the others I know.

Q. About when was that, do you remember the date, about, approximately?

A. Oh, it was around August—in August sometime.

Q. What year, Mr. Elkins?

A. '48.

(Testimony of Mike Sandoval.)

Q. And was Agent Earl Smith there on that date?      A. I think so, yes, sir.

Q. Now, what did you and Earl Smith do, if anything, on that date?

Mr. Primock: May it please the Court, I am going to object to this, no proper foundation.

Q. (By Mr. Thurman): Where was it that you met Earl Smith that day?

A. Well, I first met him at Tovrea—by the Tovrea Packing Company.

Q. About what time was that?

A. Oh, in the morning around 10:30, something like that—10:00 o'clock.

Q. Who was there?

A. Oh, Mr. Smith and Lorenz, Mr. Lorenz and some [170] more officers. This man Street you are talking about was there. What date in August is this you are asking me about?

Q. In order to refresh your memory, it is August 19th.      A. Yes, that is the date.

Q. Now, what took place between you and Earl Smith at that time and place on that day?

A. Well, Mr. Smith instructed me to see if I could buy five cans of opium from Arthur Jerez or Colimo.

Q. And what was done with respect to that?

A. Well, I went to the Pirata Inn, or the little Spanish restaurant east, just next door, east of Pirata's Inn, and Jerez came out, or "Colimo" as I know him, came out and got in the car with me,

(Testimony of Viron Elkins.)

he seemed to drive up evidently, and we drove west on Washington Street, a few blocks, and I told him what I wanted, that I wanted five cans of opium, and I turned around and came back, and I let him out there at Pirata's Inn, and I went on home. He told me he would be over there around 1:00 o'clock—or 1:30, with the opium, so I went back to Tovrea's, picked up Mr. Lorenz and Street, I believe that is the man's name, and we went back to my house, and they went into my barn, and I went [171] in the house, and at 1:00 o'clock, or the time arranged around noon, why, Colimo drove into my yard in the Chevy, the old Chevy, I guess about a '31 model, delivered to me five cans of opium.

Q. And how was this opium packed, or what was it in, if anything?

A. I believe it was in a paper bag. It was in cans, regular opium cans like they put opium in.

Q. Where were you when this opium was handed to you?      A. In the yard.

Q. In the yard?

A. Yes, sir, the east part of my yard next to the barn.

Q. After you got that particular smoking opium what did Jerez do, or Colimo?

A. I paid him \$1375 for it and he turned around and drove off.

Q. Then what took place?

A. I turned it over to Mr. Lorenz and Street.

(Testimony of Viron Elkins.)

Q. How soon after Colimo drove away did you hand it over to Mr. Lorenz?

A. Oh, just a minute, I guess, they was right there close. I just walked in there and gave it to them.

Q. Handing you Government's Exhibit 5 [172] for identification, I will ask you to examine that exhibit and see if this is the one you turned over to Lorenz, as you testified?

A. Well, that looks like that, sir.

Q. Did you mark the sack, do you remember or not?

A. I wouldn't say for sure. I thought I did, but I don't see my initials here. I remember—I believe you will find my initials on the top of this Prince Albert can is the one, this top, or on the other end. If you melt it off, I believe you will find my initials there. Somewheres on that sack I thought I initialed. I don't see it, but I believe it is the sack that he gave me.

Q. All right. Now what took place as far as you are concerned with this case subsequent to this time you just told us about, Mr. Elkins?

A. You mean since then?

Q. Well, the next thing where you appeared in the picture again.

A. December 16th, I bought an ounce of heroin from Art Leyvas at my house.

Q. What did you do with that ounce of heroin?

A. Turned it over to Mr. Earl Teets, the Narcotic Agent.



(Testimony of Viron Elkins.)

Q. Tell as about the facts on the purchase of that particular heroin.

A. Well, on December 15th, Mr. Teets and I went over to Ray Leyvas' mattress factory at 1501, it is known as the Phoenix Mattress Factory, 1501 East Adams Street, and I went in and discussed with Mr. Leyvas the purchase of an ounce of heroin for a man out in the car which I told him was a friend of mine from Reno, I believe, so Ray—and I also discussed with him the price of repairing a couple of mattresses, and Ray told me after studying a few minutes he thought he could arrange the purchase of it, he could get it for me. He said he would be over at my house the next day, which was December 16th. He came over there around noon the next day, picked up the mattress. I asked him if he brought the heroin with him, and Ray Leyvas said, no, that he would be back around 5:30 with the mattress and that he would bring it then. He came back around 5:30 that evening. In the meantime, Mr. Smith and Lorenz came in there. Mr. Earle Teets was already at the house at noon when this man came in. During the afternoon, between 4:00 and 4:30, Mr. Smith and Lorenz, I believe Mr. Lorenz was there at noon, I am not sure, but anyhow, him and Smith was there when this man came back at 5:30, this man I talked to, Ray Leyvas, and when [174] he came in the yard with the mattress on his truck, he had in the seat of the car with him a man he introduced to me

(Testimony of Viron Elkins.)

as Art Leyvas, and a woman who Ray Leyvas told me when he took the mattress around, known as Connie Leyvas, or Duarte, I believe, and so when he took the mattress around in there I asked him if he brought the heroin with him and he said, "No." He said, "I brought my brother out there, I will introduce you to him and he will fix you up," so we went back to the truck. I gave him a check for the mattress and he introduced me to his brother who got out of the truck, and he asked me what I wanted, and I told him I wanted—I had a friend that wanted an ounce of heroin. In the meantime, though, they insisted they didn't want to meet anybody, they would not—both Ray and Art Leyvas said they didn't want to meet any strangers, they wouldn't deal with them, so I told Art Leyvas what I wanted, and he said he had it but he would have to take a little time to get it, he would be back. I don't remember what else we talked about, but anyhow, in the conversation he gave me a capsule of morphine, that is what he said it was, he wanted me to try it or have this man try it, and so I took the morphine. He got back in the truck and left with the expectations—we expected [175] him back in a short time. He didn't say just how long. He said, "In a short time," so I took the capsule and turned it over to the narcotic agents.

Q. Which one?

A. Mr. Smith, at 5:30 in the evening that this happened, along about that time, and then at 7:30,

(Testimony of Viron Elkins.)

it was dark, it was in the Fall—pardon me, at 7:30, he came back. We had the floodlights on in the yard. He drove into the driveway, but he didn't drive the car into the floodlight. He got out and came on afoot, walked into the floodlight, and the agents was watching him through the window and I met him out in the yard a short distance from the house, I'd say 10 or 15 feet, something like that. He pulled out of his pocket an envelope, I believe it was in tissue paper, or oil paper, whatever you might call it, white paper. He said it was heroin. I told him I'd have to take that into the house, the man buying it was in there, he had the money, he would have to look it over, I had to get the money for it. He said, "Okay." I went in, and Teets—Earl Teets took the paper and gave me the money, \$650, and I took it out and gave it to Art Leyvas, and I think that is about all that took place at that time.

Q. Now, what next activity did you take in this matter, [176] Mr. Elkins?

A. On—in January, some time, I believe it was along the middle of January, around the 14th of January, the 14th, I made contact with Mr. Art Leyvas. Well, I went over to the mattress factory to see if I could get hold of him. I got hold of Ray Leyvas and talked to him and told him that Art was up at the house and I went up there and told him I wanted to buy \$50 worth of black stuff. That was known as opium, so he told me he had something. Well, they telephoned down to him. I got up there

(Testimony of Viron Elkins.)

and he wasn't there, and they telephoned down to him and got hold of him and he came up there. No, I think—I am getting ahead of my story. I knocked at the door this time and then a man came to the door.

Q. Which man came to the door?

A. Art Leyvas, and he told me that he—I am being mixed up a little on my date—I am not sure, but anyhow I bought \$50 worth of opium from him.

Q. Where was Teets at that time, Earl Teets?

A. He was in the trunk of my car, the back end of my car.

Q. And how long did Mr. Teets stay in the trunk of your car at that time?

A. Oh, he stayed there all the time we was there. [177]

Q. And did he ever get out of the trunk of the car?

A. While we was there.

Q. When did he get out, if he ever did get out?

A. Oh, after we got away from the place, of course, we got—contacted with Mr. Smith and he got out.

Q. And on January 14th, 1949, at the time Mr. Teets was in the trunk of the car, you had that conversation with him?

A. How is that?

Q. Who did you have your conversation with that day?

A. Well, I believe it started out with Ray Leyvas down at the mattress factory, and he told me to go see Art, his brother.

(Testimony of Viron Elkins.)

Q. Was the purchase made that day?

A. Yes, sir.

Q. And how much?

A. It was \$50 worth of opium.

Q. What form was it in?

A. Just common opium.

Q. All right, what kind of container?

A. In a jar, may have been two small jars, I don't know. I believe it was one jar, if I am not mistaken. I wouldn't say for sure, but I initialed it. [178]

Q. Who did you turn that over to?

A. Mr. Smith and Lorenz, one of them, I don't recall which one, but one of them.

Q. You didn't have any form for the purchase of that narcotics from them?

A. No—What do you mean? Government form?

A. Yes.            A. No, sir.

Q. Didn't have any stamps on it?

A. No, sir.

Q. Now, what next did you do in this case, Mr. Elkins, after this particular thing you just mentioned?

A. On February 2d, I believe, nothing more in January—Oh, I might have talked to them, I don't know, but no purchases from them until February 2d, I went over to the mattress factory at 1501 East Adams and tried to buy—let's see, now—no, I went—I believe I went to the mattress factory first, about the same procedure as the other one, and Ray sent me to that house, and I got it from Connie.

(Testimony of Viron Elkins.)

Q. Was anybody with you on this trip?

A. Yes, Earl Teets was in the trunk of the car.

Q. Where did you go that day? [179]

A. 1030 East Moreland, and Connie Duarte sold me \$50 worth of opium.

Q. Did you have any conversation with Connie Duarte at that time concerning the purchase of this opium?

A. Oh, I don't know. I think we talked a little bit. She asked me if I tried to buy this from Ray Leyvas, and I told her that Ray sent me up there. I believe that is about all. I think Art Leyvas, I am not sure about that. I believe, though, that Art was out of town, or something, I don't know.

Q. Did you discuss that fact with Connie Duarte at that time on February 2d?

A. How is that?

Q. On February 2d, 1949, at the time you were at that house with Teets in the back of the car, did you discuss that fact situation with Connie at that time about Art being out of town?

A. Yes, I think so. We talked for awhile. I believe the subject came up while I was talking to her there. I asked her if Ray Leyvas—if they was all in together on this stuff, selling it, and she said no, that they had had some difficulty or argument between them and they sold their stuff. I say "they," that is Ray Leyvas and Colimo, I believe, I wouldn't say for sure whether they [180] mentioned that gentleman there or not, but anyhow, I know



(Testimony of Viron Elkins.)

the other two were mentioned. They said they sold their stuff and Ray sold his, that is what she said, as near as I can remember.

Q. Then what was the next thing you did in this matter?

A. Oh, let's see. On February 8th I came there to buy some—\$50 worth of black stuff, opium, some—I came to the mattress factory and Ray sent me on up there to Art—no, let's see—yes, I did, I come by there and he told me to go up, that Art was home, so I went up there, and when I got up there, I knocked on the door and Connie Duarte came to the door and she said Art wasn't there, she would see if she could locate him on the phone, and she went in and supposed to have phoned, and she said, "Art is down at the mattress factory and said for you to come on down there," so I turned around and got in my car, we was talking very close to the driveway, close to the car. I got in the car and started to back out, and she ran back—The phone rang—ran back, and she came and hollered out, said, "Wait a minute," she said, "This family has gone crazy," I believe is what she said. "They said now for you to wait here." I believe that is the way it was, but anyhow I [181] waited there and pretty soon—

Q. Did you have anybody with you at that time?

A. Yes, Mr. Teets was with me.

Q. Now, what was the next thing you did in this case, Mr. Elkins, that you can remember?



(Testimony of Viron Elkins.)

A. Well, on February 14th, let's see, that was the 8th, the last date I gave you, was it?

Q. Yes.

A. On February 14th, I went there to buy some stuff, to see Art about something. Anyhow, he wasn't there. His wife, or Connie Duarte, told me that he would not be back until the next day, I believe she said, and in the meantime she said, "I got a paper of heroin here I want you to take and try." She gave it to me, a sample, and I left, and I think that was the end of it.

Q. Was Teets with you that day or not?

A. No, no, I don't believe Mr. Teets was with me that day. I think he was not with me.

Q. And this narcotic that you got from Connie on this date, did you turn that over to the officers?

A. Yes, sir; in a few minutes I turned up the street, up on Tenth Street, and turned it over to the three narcotic officers.

Q. Mr. Smith and Mr. Lorenz?

A. Yes, that is right. [182]

Mr. Thurman: You may cross-examine.

The Court: We will have our morning recess at this time, gentlemen. Keep in mind the Court's admonition.

(Thereupon a brief recess was taken, after which, all parties being present as noted by the Clerk's record, the trial resumed as follows:)

## VIRON A. ELKINS

resumed the witness stand and testified as follows:

## Recross-Examination

Mr. Primock:

Q. Mr. Elkins, on all these purchases that you made that you testified to previously and today, Mr. Lorenz was always in the vicinity, was he not?

A. Well, I believe he was, yes, I wouldn't say for sure, but I believe he was.

Q. You saw him at all times prior to making the sale and prior to making the purchase and immediately after making the purchase, did you not?

A. I don't know. I couldn't say that I did. I either seen him or Mr. Smith, one.

Q. Didn't Mr. Lorenz search you each time before he would send you out to make a purchase at Connie Leyvas' or Arthur Leyvas' house on East Moreland?

A. Did he what? [183]

Q. Search you? A. Yes.

Q. And immediately after you made a purchase didn't you deliver to Mr. Lorentz the narcotics that you had purchased from the house?

A. Most of them, I think.

Q. You mean there were some where you didn't see Mr. Lorenz?

A. I didn't see him?

Q. Yes, were there some occasions where you made a purchase at the house on East Moreland Street where you would not see Mr. Lorenz?

A. No, I turned it over to him within a few minutes after I got it.

(Testimony of Viron Elkins.)

Q. When you saw him each time, before you made a purchase and afterwards, didn't you?

A. Either Mr. Smith or Mr. Teets, one.

Q. I want to know if you saw Mr. Lorenz on each occasion.

A. Well, I wouldn't say that I did, no, because I think I did, but I wouldn't say for sure.

Q. Now, I will ask you, Mr. Elkins, whether or not on any of these occasions that you made the purchases of opium or narcotics that you testified to in this trial, whether on any of those occasions you saw this defendant Arnold Enriquez? [184]

A. No, I never have seen that man that I know of. I saw him around the Inn down there, but I don't remember seeing him at any of these places.

Q. You did all of this, Mr. Elkins, while you were earning your thousand dollars, weren't you?

A. Why, yes, I guess that is what you would call it.

Q. That thousand dollars includes your testimony in court, or are you getting extra for that?

A. I am getting paid as a witness.

Q. Just a normal witness fee? A. Yes, sir.

Q. How much is that? A. I don't know.

Q. Didn't you get paid? A. I haven't yet.

Mr. Primock: That is all.

Mr. Thurman: That is all.

(The witness was excused).

Mr. Thurman: Mr. Frank W. Colbert.

## FRANK W. COLBERT

was called as a witness on behalf of the Government, and being first duly sworn, testified as follows:

## Direct Examination

By Mr. Thurman: [185]

Q. Please state your name.

A. Frank W. Colbert.

Q. Mr. Colbert, where do you live?

A. 137 North First Street, Phoenix.

Q. And are you acquainted with this defendant Arnold Enriquez?

A. I have known him several years, yes, sir.

Q. And have you ever been into the club known as, or the restaurant, or whatever it may be, known as Pirata's Cafe—Pirata's Cafe?

A. Pirata's, yes, many times.

Q. Have you ever seen Arnold Enriquez there?

A. Oh, yes.

Q. Do you know a man by the name of Arturo Jerez?

A. Colimo, yes.

Q. Did you have any business with this man Colimo?

A. Oh, yes, I bought drugs from him many times.

Q. Did you ever have any business with this man Arnold Enriques?

A. No direct business, no, sir.

Q. No direct business. Did you ever have any indirect business?

(Testimony of Frank W. Colbert.)

A. Well, I would be in the club looking for Colimo—— [186]

Mr. Primock: I object to that as no proper foundation.

The Court: Yes.

Mr. Thurman: Do you know Okla Johnson, the agent that testified here? A. Yes, sir.

Q. And when did you first meet him?

A. Oh, in the latter part of '48.

Q. And did you become friendly with Mr. Johnson? A. Yes, sir; I assisted Mr. Johnson.

Q. Did you go to places of entertainment together? A. That is correct.

Q. Did you and he go to a prize fight one day?

A. Oh, about the night of January 12th, 1949, we went to Madison Square Garden to a fight.

Q. Did you see anyone there that night other than—Did you see Arnold Enriquez that night?

A. Mr. Enriquez and Mr. Joe Martinez were there together and as they came out I stopped Mr. Enriquez and called him up to the side and asked him if it would be possible to get several cans of opium that night, that we needed it very badly, and he told me there was nothing in town, that Art would be back Friday, that was Mr. Leyvas, and I would have to wait until he got back. [187]

Q. Who was there at that conversation besides yourself and Arnold Enriquez?

A. I don't think anyone overheard it.

Mr. Thurman: You may cross-examine.

(Testimony of Frank W. Colbert.)

Cross-Examination

By Mr. Primock:

Q. How long have you lived in Phoenix, Mr. Colbert?      A. About three years.

Q. About three years. Where did you live before you came to Phoenix?      A. Denver.

Q. How long did you live there?

A. Oh, approximately five or six years.

Q. How long have you known Arnold Enriquez?

A. Oh, I was in Phoenix, living in Phoenix, before this time. I knew him when I was here before, in '43 and '44.

Q. You worked on this case in behalf of the United States Government, did you not?

A. I assisted, yes.

Q. And you were paid for your services, were you?      A. I was.

Q. And how much were you paid?

A. One thousand dollars. [188]

Q. Mr. Colbert, you use narcotics, do you not?

A. I do.

Q. And have you ever been convicted of a felony?      A. I have.

Q. And what was that?

Mr. Thurman: I object to that, is is immaterial.

The Court: Yes; he said he was convicted of a felony, that is sufficient.

Q. (By Mr. Primock): Now, on January 12th, 1949, when you went over to see Mr. Enriquez at

(Testimony of Frank W. Colbert.)

the fights, you did so at the request of Mr. Johnson, did you not?      A. I did.

Q. And Mr. Johnson told you on that night to go and see if you could buy some stuff from Enriquez, didn't he?      A. Correct.

Q. And you were not successful in purchasing any?      A. That is right.

Mr. Primock: That is all.

Mr. Thurman: That is all.

(The witness was excused.)

Mr. Thurman: Mr. Earl Smith. [189]

### EARL A. SMITH

was called as a witness on behalf of the Government, and being first duly sworn, testified as follows:

#### Direct Examination

By Mr. Thurman:

Q. State your name.

A. Earl A. Smith.

Q. And where do you live, Mr. Smith?

A. Phoenix, Arizona.

Q. And how long have you lived there?

A. Since the latter part of '44.

Q. Now, what has been your business during that period of time?

A. I have been engaged in enforcing the Narcotic Laws.

Q. Just what is your status, what do they call you?



(Testimony of Earl A. Smith.)

A. Well, I am the agent in charge here in Phoenix, Arizona.

Q. Did you have anything to do with the investigation, the handling of the case against these defendants, Arturo C. Leyvas, Arnold Enriquez, Ray C. Leyvas, Connie Duarte, Arturo E. Jerez, Joe Martinez?

A. I did. [190]

Q. And just what was your responsibility and duties in that particular investigation?

A. Well, I handled the money and went out and witnessed the purchases of this and took care of the evidence, and so forth.

Q. And these Government's exhibits up here that are marked in evidence, Exhibits 1, 2, 4, 5, 6, 7, 10, 12, 13, 14, 15, 18, 20 and 24 for identification were all handled by you in this case?

A. Yes, sir.

Q. And what did you do with those exhibits after they were turned over to you by the witnesses that have already testified to these facts?

A. They were all sent to John W. Custer, Chief Chemist, United States Customs Laboratory, Los Angeles, California, by registered mail.

Q. And I just left out 5, 8 and 9, and did that also happen with respect to Government's Exhibits 5, 8 and 9 marked for identification?

A. Yes, sir.

Q. They were handled in the ordinary course of the business of the Internal Revenue, Narcotic Division, is that correct?

(Testimony of Earl A. Smith.)

A. Bureau of Narcotics Regulations, yes, sir.

Q. What was your first step in this investigation, limiting your evidence, Mr. Smith, to what [191] was actually done in the case after it started?

A. Well, in July—July 22d, I furnished Viron Elkins with \$1375, and with Customs Agents Mel Rogers and Ed Ketchum, I followed Mr. Elkins to this small cafe which is east of Pirata's Inn near Sixteenth and East Washington Streets. Mr. Elkins entered this cafe, and in a few minutes I saw Arturo Jerez, better known as Colimo, drive up in a Cadillac sedan of Arnold Enriquez, and he went into this cafe where I had seen Mr. Elkins go. They came out—Colimo and Mr. Elkins came out and sat in Mr. Elkins' car, and then Mr. Elkins drove away, and I saw Arturo Jerez get in the Cadillac sedan and drive to the home of Ray Leyvas and go in the back door, and in about 15 minutes I saw him, Colimo, drive in this Cadillac car going up Washington Street. About 12:30, I met Agent Lorenz and other officers in Tempe, and Mr. Lorenz showed me a sack containing five cans of smoking opium, and on the way back to Phoenix, Agent Lorenz and Customs Agent Bump and myself, we drove by the Leyvas Mattress Factory and this green Cadillac sedan was parked alongside.

Q. Then what next took place?

A. In August—August 19th, I again furnished Elkins with \$1375, and I followed him with Customs [192] Agents Rogers to Sixteenth and East

(Testimony of Earl A. Smith.)

Washington Streets. Just as he was parking I saw Arturo Jerez, or Colimo, come out of this same cafe and get in the car with Elkins, and they drove west on Washington for a few blocks and made a U turn and came back, and Arturo Jerez got out of Elkins' car and went back in the cafe, and Elkins continued on east, on East Washington, and in about five minutes I saw Joe Martinez drive up in the green Cadillac sedan of Arnold Enriquez and go in this same cafe, and in about ten minutes I saw Joe Martinez come out of this cafe and get in the Cadillac and drive up town, where I lost him.

About 2:00 p.m. of that day I saw Art Jerez driving a '31 Chevrolet known as the Green Hornet, come driving west on East Washington, and drive into the driveway at 1505 East Adams, just between the Leyvas Mattress Factory and the home of Ray Leyvas. I then went to the office, and Agent Lorenz showed me a sack containing five cans of prepared smoking opium.

Q. What was the next transaction?

A. On the night of November 5th, 1948, about 8:30 p.m., I saw Frank Colbert come walking west on East Monroe and go into the Normandie Hotel. In [193] just a few minutes I saw Art Leyvas go into this hotel, and in about 15 minutes later I saw Art Leyvas and Frank Colbert come out of this hotel together, and in a short time I saw Narcotic Agent Johnson come out of this hotel, and I followed him to his room and he turned over to me a

(Testimony of Earl A. Smith.)

small package of heroin and four cans of prepared smoking opium.

Q. Can you tell us what the next episode was?

A. Well, let's see. It was the next day, I saw Art Leyvas pick up Narcotic Agent Johnson in an old car and drive out of my sight, and they came back in about 20 minutes and I saw Agent Johnson get out of the car and I followed him to his room, and he turned over to me a package of heroin and some mixing powder.

Q. What was the next thing that took place in this case?

A. Well, on November 14th, I saw Connie Duarte talking with Narcotic Agent Johnson and Frank W. Colbert on the stairway leading into the Normandie Hotel, and I saw her leave and come back in about 40 minutes and hand something to Johnson, and I saw Agent Johnson, it looked like he was paying her money.

Q. Did you ever find out what that something was that was handed to him?

A. I met him in his room and he turned over to me a package of heroin.

Q. How big a package?

A. Oh, about a half ounce, I would estimate.

Mr. Thurman: One of these exhibits here?

A. Yes, sir.

Q. What next happened?

A. Well, on December 16th, 1948, Narcotic Agent Lorenz and I went to the home of Viron Elkins

(Testimony of Earl A. Smith.)

east of Tempe, Arizona. About 5:30 p.m. I saw Ray Leyvas and Art Leyvas drive in the Elkins yard in a red Dodge truck on which was painted "Phoenix Mattress Factory." I saw Elkins talk with Ray Leyvas, and then I saw Art Leyvas get out of the truck and shake hands with Elkins, and in a few minutes I saw Art Leyvas hand—reach in his pocket and hand Elkins a small object, and then Art Leyvas and Ray Leyvas drove off in the truck and Elkins came and turned over to me a capsule of morphine.

Later, about 7:15—7:30, I saw Art Leyvas walk into the light of a floodlight, and I saw Elkins go out and meet him and saw Art Leyvas hand Elkins a package containing a white substance, and I saw Elkins go in the house and come back and [195] I could hear him counting out some money, and could see him going through those motions. I heard Art Leyvas tell him that he had two ounces of morphine that was not of the best quality, but he wanted \$400 an ounce for that morphine.

Q. All right, what is the next thing that took place?

A. On January 14th, 1949, I furnished Mr. Elkins with \$50, and Narcotic Agent Earl Teets got in the truck compartment of his automobile. Narcotic Agent Lorenz and I followed Mr. Elkins' automobile to the Phoenix Mattress Factory at 1501 East Adams. I saw Ray Leyvas come out and stand by the car for about ten minutes and I then

(Testimony of Earl A. Smith.)

followed Mr. Elkins' car to 1030 East Moreland Street, where I saw him get out and go up and talk with someone at the door. He started to back away and then he went back into the driveway, and then a short time, Art Leyvas drove up there in a '41 Chevrolet coupe with a Louisiana license. I saw Art Leyvas get out and stand at the side of the car for a few minutes, and then I saw Elkins and Art Leyvas enter 1030 East Moreland. About 20 minutes after that I saw Elkins leave and he turned over to me a small package of heroin and a jar of opium. [196]

Q. One of the exhibits here?

A. Yes, sir.

Q. Now, what was the next thing that took place?

A. Well, that night I——

Mr. Primock: What date is that, again?

A. January 14th. That night I followed Narcotic Agent Johnson to Pirata's Inn, and about 9:00 or 9:30 I saw Narcotic Agent Johnson and Arturo Jerez, or Colimo, come out of this Club and enter Agent Johnson's car and drive north on Sixteenth Street. Agent Lorenz and I then drove by 1030 East Moreland Street, and the car of Arnold Enriquez was parked in front. Later, about 10:00 p.m., Agent Lorenz and I again drove by 1030 East Moreland, and a '41 Chevrolet coupe that I had seen Art Leyvas driving was parked behind Arnold Enriquez' automobile.

Q. Tell us what next took place.



(Testimony of Earl A. Smith.)

A. On January 15th, I saw Charles Cobos dial telephone 4-3914.

Q. Who? A. Charlie Cobos.

Q. Who is Charlie Cobos?

A. He is the man that was assisting me in this investigation.

Q. And what date did you say this was? [197]

A. That was on January 15th.

Q. '49? A. Yes, sir.

Q. Where did this take place?

A. At the drug store at the corner of, I believe it is Henshaw and South Central Avenue.

Q. What did you see him do there?

A. Dial this telephone 4-3914.

Q. 4-3914? A. 4-3914, yes, sir.

Q. And did you know at that time whose telephone number it was?

Mr. Primock: I object to it as not the best evidence.

The Court: He may answer if he knows.

A. It is listed in the telephone book to Arnold Enriquez at 2022 East Moreland.

Mr. Primock: I move that it be stricken on the grounds it is hearsay.

The Court: It may stand.

A. About 2:00 p.m. after the telephone call I searched Mr. Cobos and furnished him with \$50, and Mr. Cobos went to his home at 1018 South First Street. At 1:45 p.m., maybe 2:00 p.m., I saw Joe Martinez and Ernest Hayworth driving



(Testimony of Earl A. Smith.)

a black Cadillac sedan, and Ernest Hayworth drove up in [198] front of 1018 South First Street. I saw Joe Martinez get out of this car and go in and knock, and I saw Cobos come out into the yard, and I—after a few minutes' conversation, I saw Joe Martinez hand Cobos something, and I saw Cobos pay him—Martinez, what appeared to be money.

Q. And after you saw this transaction what took place then?

A. Cobos, Joe Martinez, then went out and got in the car for a few minutes with Ernest Hayworth and then Cobos got out and he walked south and came to Agent Lorenz and myself and turned over to us a jar of opium.

Q. And after you received that jar of opium, what did you do with it?

A. I sent it to the office of the chemist by registered mail.

Q. I hand you Government's Exhibit 23 for identification, Mr. Smith, I will ask you to examine it.

A. That is not the one—this one here is not the one.

Q. Is this the one you have reference to?

Mr. Primock: What is the number of it?

Mr. Thurman: I want to find out first, I am not sure. [199]

A. No, it is the one right behind it (indicating counsel table).

(Testimony of Earl A. Smith.)

Mr. Thurman: Will you go on the desk and find the one?

(The witness complies.)

Q. (By Mr. Thurman): This is Government's Exhibit 19 for identification. I will ask you to examine that and see if you can identify the exhibit contained therein.

A. Yes, sir; this is a jar of opium that Cobos turned over to Agent Lorenz and myself.

Q. What date was that again?

A. That was on January 15th, 1949 at 1:45 p.m.

Q. And what did you do with that after you got it?

A. Sent it to the United States Chemist at Los Angeles, California.

Q. All right. Now, proceed, do you know where you were when I interrupted you?

A. Well, on February 6th, 1949, I again saw Charlie Cobos dial telephone 4-3914.

Q. And where?

A. From this same drug store at Henshaw and South Central Avenue. I heard him talk to someone which he called "Pirata" in Spanish.

Mr. Primock: I move that that be stricken as hearsay.

The Court: Oh, it may stand.

The Witness: About 11:00 a.m., I searched Mr. Cobos and furnished him with \$50, and about 11:00 a.m. I saw Joe Martinez drive up in front of Mr.

(Testimony of Earl A. Smith.)

Cobos' house at 1018 South First Street in a '37 Chevrolet sedan. I saw Joe Martinez get out, knock on Mr. Cobos' door, and Mr. Cobos and Martinez entered this car and sat for about ten or fifteen minutes, and I could see their shoulders moving like this (indicating). Joe Martinez then drove off and Mr. Cobos walked down the street followed by Agent Lorenz and I back where we met down there, and Mr. Cobos turned over to me a jar of smoking opium.

Q. Which one was that?

A. I then drove rapidly across town to the vicinity of 2022 East Moreland Street, the home of Arnold Enriquez, and I saw Joe Martinez parking in this car, a Chevrolet car, in front, and enter the front door of the home of Arnold Enriquez.

Q. That was immediately after you got the——

A. Immediately after, yes, sir.

Q. ——the narcotics from Cobos?

A. That is right. [201]

Q. Handing you Government's Exhibit 22 for identification, I will ask you to examine that exhibit and state whether or not you can identify it.

A. Yes, it is the contents of the jar of opium turned over to me by Carlos Cobos on February 6th, 1949, at 11:05 a.m.

Q. And what did you do with that in your capacity as such narcotic agent?

A. I sent it to the United States Chemist at Los Angeles by registered mail.

Q. Now, what took place after this episode?

(Testimony of Earl A. Smith.)

A. Well, on February 8th, 1949, I again saw Carlos Cobos dial telephone 4-3914. I heard him talk in Spanish, and he hung up. I then saw him dial telephone 9-6327.

Q. 9-6327?

A. And he said in English, "Let me speak"——

Mr. Primock: I object to what he said as being hearsay.

The Court: He may answer.

A. "Let me speak to Pirata." He then carried on a conversation in which the name "Pirata" was mentioned several times, and then hung up. I then searched Mr. Cobos and furnished him with \$50. At about 2:30 p.m., I saw Arnold Enriquez drive in a '47 Chevrolet automobile on the side of which was "A.A-1 Corporation, Car No. 13." Art Leyvas was sitting beside him. I saw Cobos come out of the door of the car—of his house, and got in the car with Arnold Enriquez and Art Leyvas and talk for about 20 minutes. I saw Arnold Enriquez make a U turn, and I followed Arnold Enriquez and Art Leyvas back to 1030 East Moreland Street, where they parked this Chevrolet car in the driveway.

In a short time I saw Joe Martinez come out and get in this same car, and I drove rapidly back to where I could see 1018 South First Street, and when I arrived there, I saw Joe Martinez in this same Chevrolet car, and Charlie Cobos was sitting beside him. In a few minutes I saw Charlie Cobos get out of his automobile and Agent Lorenz followed him out of the front door, and I went down

(Testimony of Earl A. Smith.)

back to where I met Charlie Cobos, and he turned over to me a jar of opium.

Q. (By Mr. Thurman): And what was the date that you gave for that?

A. That was February 8th.

Q. Handing you Government's Exhibit No. 23 for identification, I will ask you to examine it and see if you can identify it. [203]

A. Yes, sir; this is a jar of opium that was turned over to me.

Q. By Mr. Cobos? A. Cobos.

Q. What did you do with that?

A. That was sent by registered mail to the United States Chemist at Los Angeles.

Q. You handled that in the same manner as you did all of these other exhibits? A. I did.

Q. Well, what else happened after that?

A. Well, after receiving the opium from Mr. Cobos, Mr. Lorenz and I drove to 1030 East Moreland and we did not see the Chevrolet coupe there. We started to leave when we saw Joe Martinez driving up and he drove back into the driveway of 1030 East Moreland and enter 1030 East Moreland.

Q. Now, what is the next thing you participated in in this case?

A. Well, on February 9th, I appeared before the United States Commissioner and swore to complaints against Arnold Enriquez, Art Leyvas, Connie Duarte, Joe Martinez and Arturo Jerez.

Mr. Thurman: You may cross-examine. [204]

(Testimony of Earl A. Smith.)

Cross-Examination

By Mr. Primock:

Q. Mr. Smith, you testified that you are the agent in charge of this area? A. Yes, sir.

Q. And you are responsible for everything that is in this area?

A. No, I am not responsible for it.

Q. I mean you are the head man, are you not?

A. Most everything is referred to me, yes, sir.

Q. You handle all of the narcotic investigations in this area, do you not?

A. Well, no.

Q. You are the agent in charge?

A. Yes, but I can't personally do everything myself.

Q. I don't mean you, personally, but I mean you are in charge of all of the investigations.

A. I am held responsible, yes, sir.

Q. Does that area include all of Arizona?

A. Well, it includes the district which includes Arizona. Sometimes it may include California or Nevada or Texas.

Q. I know, but you are the responsible head agent in charge for what area?

A. For Arizona. [205]

Q. Arizona only, is that correct? A. Yes.

Q. And you have the discretion, do you not, of spending money in your investigation of cases?

A. No, I can't personally spend a dime without



(Testimony of Earl A. Smith.)

the approval from the Commissioner in Washington.

Q. Well, when you put out this, like on July 22nd, 1948, you gave Mr. Elkins \$1375. Did you write to Washington or notify Washington that you wanted to give Elkins \$1375?

A. Yes, they knew about it and it was——

Q. Just answer my question. Did you, before you put out that \$1375, get permission from Washington telling them you were going to spend \$1375 by giving it to Informer Elkins to purchase some narcotics?

A. Yes, it was part money furnished by the Bureau and the Customs.

Q. It was not your money?

A. Half belonged to the Bureau of Narcotics and half belonged to the Bureau of Customs.

Q. Before you spent your half, which would be a little over \$600, you had permission from Washington to give that money to Elkins?

A. I did.

Q. Was that by letter or what? [206]

A. Teletype.

Q. On July 22d, when you gave Elkins that \$1375 and he consummated the sale with Colimo that you watched, did you see this defendant Arnold Enriquez present?

A. No, sir.

Q. How much money did you expend altogether in the investigation of this case?

A. Well, the Bureau of Narcotics spent a little



(Testimony of Earl A. Smith.)

over \$4000 and the same amount with the Bureau of Customs.

Q. In other words, a total of \$8000?

A. Yes, sir.

Q. How would you account to the Government for your money after it was spent?

Mr. Thurman: Just a minute, I object to that as irrelevant, incompetent and immaterial, no place in the case.

The Court: Yes.

Q. (By Mr. Primock): Did you have permission from Washington to pay Frank Colbert \$1000?

A. Our Bureau paid Frank Colbert \$1000, and the Bureau of Customs paid Mr. Elkins \$1000.

Q. Just answer my question, Mr. Smith.

A. I did.

Mr. Thurman: I object, it is immaterial and incompetent.

The Court: Well, he has answered the question.

Mr. Primock: If the Court please, I asked him if he had permission from Washington.

Mr. Flynn: He said Washington spent it.

Q. (By Mr. Primock): On August 19th, 1948, when you furnished Elkins \$1375 and he made a purchase from Joe Martinez, did you see this defendant Arnold Enriquez present?

A. I did not.

Q. On November 5th, 1948, when Colbert and Johnson purchased some stuff from Art Leyvas, how much money did you advance to Colbert and Johnson, if any?

(Testimony of Earl A. Smith.)

A. I advanced to Narcotic Agent Johnson \$1000.

Q. Did you see Arnold Enriquez present on that day, or at that time? A. No, sir.

Q. Pardon? A. No, sir.

Q. On November 6th, 1948, when Johnson made a purchase from Arturo Leyvas, did you advance any money to Johnson at that time? A. I did.

Q. How much did you advance him?

A. \$475, as I recall. [208]

Q. And on November 6th, 1948, when that sale was consummated between Arturo Leyvas and Colimo and Johnson, did you see this defendant Arnold Enriquez? A. No, sir.

Q. On November 19th, 1948, when on the stairway of the Normandie Hotel when Johnson purchased some opium from Connie Duarte, or Connie Leyvas, how much money did you advance Johnson for that sale? A. \$325.

Q. And did you see Arnold Enriquez, this defendant, present at that time? A. No, sir.

Q. On December 16th, 1948, at the home of Elkins in Tempe, where Ray and Art came over, how much money did you advance Elkins at that time?

A. I advanced \$650 to Narcotic Agent Teets.

Q. How much? A. \$650.

Q. \$650. And did you see Arnold Enriquez present on that day and place? A. No, sir.

Q. Later that evening, on the same day, on December 16th, 1948, when you saw Art Leyvas come back and hand Elkins a package, did you see Arnold

(Testimony of Earl A. Smith.)

Enriquez present? [209]           A. No, sir.

Q. On January 14th, 1949, when the purchase was made in front of the home of Arturo Leyvas on East Moreland Street, how much money did you advance for that purpose?           A. \$50.

Q. And did you see Arnold Enriquez present at that time?           A. No, sir.

Q. And on January 14th, 1949, when you followed, or when you saw, rather, Johnson and Colimo come out of Pirata's Inn and drive north on Sixteenth Street did you see Arnold Enriquez at that time?           A. No, sir.

Q. And how much money did you advance for that purchase?           A. \$1000.

Q. Now, on January 15th, 1949, when you went down, you were at Cobos' home and you said Joe Martinez and Ernest Hayworth drove up in a Cadillac car?           A. Yes, sir.

Q. What color was that Cadillac car?

A. It was a black Cadillac, '46 model.

Q. And you say you saw Joe Martinez hand Cobos a package? [210]           A. I did.

Q. How much had you advanced Cobos prior to that?           A. \$50.

Q. Did you see Arnold Enriquez at that time and place?           A. No, sir.

Q. Now, on February 6th, 1949, when you advanced Cobos some more money, did you not?

A. I did.

Q. How much did you advance him then?

A. \$50.

(Testimony of Earl A. Smith.)

Q. And he made another purchase, you say, from Joe Martinez in the automobile?

A. He did.

Q. And at that time and place did you see this defendant Arnold Enriquez?

A. No, but I followed him back to Arnold Enriquez' home.

Q. You didn't see him at the time of the purchase though? A. No, sir.

Q. Now, on February 8th, 1949, how much did you advance Cobos to make a purchase?

A. \$50.

Q. You say this purchase took place at what time? [211]

A. Well, I didn't witness that purchase.

Q. You didn't witness it? A. No, sir.

Q. Were you present when Arnold Enriquez was arrested?

A. I saw him later, about 30 minutes after his arrest.

Q. But you weren't present at the time of the arrest? A. No, sir.

The Court: We will suspend until 2:00 o'clock. Keep in mind the Court's admonition.

(Thereupon a recess was taken at 12:05 o'clock noon of the same day.)

2:00 o'Clock, P.M.

All parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:

## EARL A. SMITH

resumed the witness stand and testified further as follows:

## Cross-Examination

(Resumed)

By Mr. Primock:

Q. Mr. Smith, how much did you and the Government pay Mr. Cobos for his work in this case?

A. Well, I didn't pay him anything.

Q. To your knowledge, did the Government or any of the others pay him anything?

A. Not for any work on this particular investigation.

Mr. Primock: That is all.

Mr. Thurman: Just one thing I forgot.

## Redirect Examination

By Mr. Thurman:

Q. Please mark the purported judgment in No. C-10038, Tucson, as a Government's exhibit.

(Thereupon the document was marked as Government's Exhibit 29 for identification.)

Q. (By Mr. Thurman): How long have you known this defendant?

A. Since the latter part of '44.

Q. I hand you Government's Exhibit 29 for identification and ask you to look at it and I will ask you if the person named therein is the same person as Arnold Enriquez that sits here at the table, the defendant in this case?

(Testimony of Earl A. Smith.)

A. Yes, sir.

Mr. Thurman: The Government now offers in evidence Government's 29 for identification.

Mr. Primock: If the Court please, we have [213] some objections to this which we would like to make in the absence of the jury.

The Court: Well, let me see what it is.

(Thereupon the document was handed to the Court.)

The Court: Well, I think you can state your objections to it.

Mr. Primock: If the Court pleases, it is improper and immaterial; incompetent. It goes to the offenses which are not in issue at this time. It goes to impeach the defendant who has not at this time taken the witness stand.

The Court: Well, the general rule is that evidence of other offenses is admissible on the question of intent.

Mr. Primock: Providing they are within a reasonable period of time, your Honor. This is something supposed to have happened many years ago.

The Court: It happened five years ago. It will be received and the Court will limit the effect by proper instruction.

Mr. Thurman: Will you mark it in evidence, please?

(The document was marked as Government's Exhibit 29 in evidence.)

(Testimony of Earl A. Smith.)

GOVERNMENT'S EXHIBIT NO. 29

In the United States District Court for  
The District of Arizona

No. C-10038-Tucson

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARNOLD S. ENRIQUEZ,

Defendant.

Due proceedings having been had on the Indictment filed herein presented against the defendant above-named charging a violation of Title 21, United States Code, section 174 and Title 26, United States Code, section 2553 as charged in counts 2 and 3 thereof.

It Is Ordered, Adjudged and Decreed that said defendant is guilty of said crime and in punishment thereof that said defendant be committed to the custody of the Attorney General of the United States or his duly authorized representative for imprisonment in such place of confinement as the said Attorney General shall designate for a term of two (2) years and six (6) months on each of said counts 2 and 3, said terms of imprisonment to run concurrently with each other and that said defendant be fined in the sum of \$1,000.00 on count 2 and in the sum of \$500.00 on count 3, and that in default of



(Testimony of Earl A. Smith.)

payment of said fines he stand committed until the same are paid or he is otherwise discharged by law.

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

Dated at Tucson, Arizona, March 5, 1945.

/s/ ALBERT M. SAMES,  
Judge.

A True Copy. Certified this 5th day of March, 1945.

EDWARD W. SCRUGGS,  
Clerk.

JEAN E. MICHAEL,  
Deputy.

[Endorsed]: Filed March 5, 1945.

Admitted April 27, 1950.

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Mr. Thurman: The record may show that I am now [214] reading Government's Exhibit 29 in evidence to the jury.

(Thereupon Exhibit No. 29 was read to the jury by Mr. Thurman).

Mr. Thurman: That is all.

(The witness was excused).

Mr. Thurman: Mr. Nicholson.

REDVERS G. NICHOLSON

was recalled on behalf of the Government, and having been heretofore duly sworn, testified as follows:

Redirect Examination

Mr. Thurman:

Q. I hand you Government's Exhibit 19, and see if you can identify that.

A. Yes, we received this in our laboratory.

Q. Did you make an analysis of it?

A. I did.

Mr. Primock: I object as no proper foundation being laid.

Q. (By Mr. Thurman): Who did you receive it from?

A. We received it from the Bureau of Narcotics—I will state which gentleman it is. We received that from Mr. Robert Lorenz of the Bureau of Narcotics, Phoenix, Arizona. [215]

Q. In the regular course of business of handling such matters? A. Beg pardon?

Q. In the regular course of business of handling such matters? A. Yes, sir.

Q. How did it arrive at your place of business?

A. By registered mail in this envelope.

Q. After that exhibit arrived in this laboratory, please tell the Court and jury what was done with respect to that exhibit?

A. The outside envelope was opened up, a rec-

(Testimony of Redvers G. Nicholson.)

ord was made of this, and it was then placed in the vault until such time as it was analyzed. It was then analyzed, resealed, placed in the vault until such time I was ordered to bring it into this courtroom.

Q. Did you bring it into this courtroom?

A. I did sir.

Q. After you left Los Angeles with it, did anybody touch it until you got it here in the courtroom?

A. No, sir.

Q. Only yourself? A. Yes, sir.

Q. What does the analysis of that particular exhibit [216] show?

A. The sample contains prepared smoking opium.

Q. I hand you Government's Exhibit 23 marked for identification, and ask you to examine it and see if you can identify it. A. Yes, sir.

Q. And how do you identify it?

A. This is an exhibit, originally No. 24. It was received in our Los Angeles office on February 15th, 1949.

Q. And how was it received?

A. By registered mail in this envelope.

Q. And after it arrived at the laboratory in Los Angeles by registered mail, what was done with it, if you know?

A. The outside envelope was opened up, a record made from the data on the outside, and was sealed in the envelope inside, and then placed in our vault until such time as it was brought out to be analyzed, then analyzed, resealed, and placed back

(Testimony of Redvers G. Nicholson.)

in the vault until such time as ordered here by the Court.

Q. It was handled in the regular course of business in handling such matters? A. Yes, sir.

Q. What does the analysis of this sample [217] show?

A. The analysis of this sample shows it is prepared smoking opium.

Q. Will you tell us what officer you received it from?

A. Oh, it was received from Mr. Lorenz, from the Bureau of Narcotics, Phoenix, Arizona.

Q. Now, I hand you Government's Exhibit 23 for identification and ask you if you can identify the exhibit.

A. Pardon me, this is 22, is it not?

Q. 22, yes. Thank you.

A. This, we received this sample from Mr. Earl Smith of the Bureau of Narcotics, Phoenix, on February 8th, 1949.

Q. And how did you receive it?

A. Received it by registered mail in this envelope.

Q. And was that other envelope and its contents contained in that envelope? A. Yes, sir.

Q. What took place after you received it at the laboratory in Los Angeles by registered mail?

A. The outside envelope was opened up, a record made of the contents from this writing on the inside envelope, placed in the vault until such time it was to be analyzed, then taken out, [218] ana-

(Testimony of Redvers G. Nicholson.)

lyzed, resealed, placed back in the vault until such time as I was ordered to bring it in to this court here.

Q. You made analysis of it, did you?

A. Yes, sir.

Q. And what does the analysis show?

A. Prepared smoking opium.

Mr. Thurman: That is all.

Recross Examination

By Mr. Primock:

Q. Mr. Nicholson, have those exhibits been in your possession all of the time?

A. In our vault and then in my possession all the time I was bringing it into this courtroom.

Q. But subsequent to the analysis, after—after you made the analysis, what did you do with them?

A. I sealed them up and placed them in the vault.

Q. Who is the custodian of the vault?

A. Beg pardon?

Q. Who has custody of the vault?

A. Mr. John W. Custer, Chief Chemist.

Q. Is he the only one that has a key to the [219] vault?

A. No, sir; there are three of us chemists that have access to that vault.

Mr. Primock: That is all.

Mr. Thurman: That is all.

(The witness was excused.)

Mr. Thurman. Mr. Harris.

## JESSE J. HARRIS

was called as a witness on behalf of the Government, and being first duly sworn, testified as follows:

## Direct Examination

By Mr. Thurman:

Q. Please state your name.

A. Jesse J. Harris.

Q. Mr. Harris, where do you live?

A. Phoenix.

Q. Phoenix, Arizona?

A. That is correct.

Q. How long have you lived up here?

A. Six and one-half years.

Q. And what business or profession are you in?

A. I am Public Office Manager for the Mountain States Telephone & Telegraph Company.

Q. Here in Phoenix, Arizona?

A. Yes, sir. [220]

Q. And do you have access to the records of the Telephone Office?      A. Yes, sir.

Q. What records?

A. Well, I have access to records which are long distance calls and their application to names, addresses, the record of service, amount of pay.

Q. That is your job there, is keeping track of those records, is that right?

A. Yes, sir, part of my job, yes.

Q. They are kept under your direction and control for the Telephone Company?

A. That is right.

(Testimony of Jesse J. Harris.)

Q. You were subpoenaed to bring with you the records showing in whose name Phoenix phone No. 4-3914 was listed from September, 1948, to February 15th, 1949, were you not?

A. That is right.

Q. And do you have the record of the Telephone Company portraying that? A. I do.

Q. And what does that record show?

A. That was 4-3914, wasn't it?

Q. 4-3914.

A. That record tells me it was listed in the name of Arnold Enriquez at 2022 East Moreland Street.

Q. And do you also have a record there of Phone No. 9-6327? A. I do.

Q. And for that same period of time can you tell the Court and jury in whose name that phone number was listed?

A. That was listed to Connie Duarte, non-listing, at 1030 East Moreland Street.

Q. You said "non-listing"?

A. That is as to the name.

Q. What does it mean in telephone parlance?

A. That "non-listing" means it is not listed in the directory, but you can get it by calling the information operator.

Mr. Thurman: You may cross-examine.

### Cross-Examination

By Mr. Primock:

Q. Mr. Harris, Phone No. 4-3914 in the name



(Testimony of Jesse J. Harris.)

of Arnold Enriquez, that is a listed number in the telephone book, is it not?

A. It was at that time.

Mr. Primock: That is all.

(The witness was excused).

Mr. Thurman: The Government now offers in evidence all exhibits 1 to 29 that have been marked for identification, with the exception of Exhibits 16, 3 and 23. With the exception of those three, we now offer them in evidence; that is, the narcotics,

Mr. Primock: Which three?

The Clerk: 28 and 29 are already in evidence.

Mr. Primock: Which three were not offered?

Mr. Thurman: 16, 3 and 23.

Mr. Primock: If the Court please, we object to the Exhibits 19 and 22 which refer to sales or purchases, rather, made by the man by the name of Cobos, for the reason there is no testimony that the exhibits are in the same condition as they were when they were delivered to Mr. Cobos. We object to Exhibit 4, as they were not identified by the witness Elkins. He could not identify that particular package as being the identical package that he received. We further object to all exhibits on the grounds they have not connected this defendant Arnold Enriquez in any way, shape or form, with any of the exhibits that are here, and for that reason should not be admitted.

The Court: Didn't the witness Elkins find his

initials on the wrapping on the four cans of opium?

Mr. Thurman: Your Honor, he did not. He said he could not identify them. I am talking about 4 now.

The Court: Yes.

Mr. Thurman: However, the Government's evidence shows this, that he said as soon as he got the four cans of opium that he turned them over immediately to Lorenz who was in the barn, and as he walked out, he handed them to him. Mr. Lorenz said, "These are the ones I got from Mr. Elkins at that time and place," and he found his initials on here.

The Court: All right, the objection will be overruled.

(Thereupon the documents were received as Government's Exhibits 1 to 27, inclusive, with the exception of No. 3, 16 and 23, in evidence).

Mr. Thurman: I'd like to make a correction there, Mr. Clerk, that 23—Let me be right about this now, Government's Exhibit 23 marked for identification I think should be in. I don't want to make any error, but let's check it. That is the one you testified in the Cobos matter.

Mr. Smith: That is right.

Mr. Thurman: So I would like to say, with that correction, with the exception of 16 and 3.

Mr. Primock: We would like to include our objections to 23, the same objection as was made to 19 and 22, that they were delivered to Cobos, and

he has not testified that they are in the same condition as he received it.

The Court: All right, they may be received.

(Whereupon Government's Exhibits 1 to 27, with the exception of Exhibits 3 and 16, were received in evidence).

Mr. Thurman: The Government rests.

Mr. Primock: At this time, your Honor, we would like to have the jury excused to make some motions.

The Court: All right, you may retire from the courtroom, gentlemen. Keep in mind the Court's admonition.

(Thereupon the jury was excused). [225]

#### Defendants' Case

Mr. Primock: At this time, your Honor, we would like to move for judgment of acquittal on Count 52 which charges Arnold Enriquez with knowingly and fraudulently, contrary to law, import and bring into the United States, and assist in so doing, approximately 11,229 grains of prepared smoking opium, on the grounds that there is no evidence whatsoever that this defendant did bring 11,229 grains, or any grains, into the United States.

We would like to also make a motion for judgment of acquittal on Count 53, which charges Arnold Enriquez with the transportation and concealment, after unlawful importation thereof, of ap-

proximately 11,229 grains of prepared smoking opium, on the ground there is no evidence showing that Arnold Enriquez transported or concealed any grains of opium.

We would also like to move for judgment of acquittal on Count 54, which charges Arnold Enriquez with unlawfully, fraudulently and feloniously sell, distribute and give away to one Okla W. Johnson a certain quantity of prepared smoking opium, to wit, approximately 11,229 grains of prepared smoking opium, on the grounds that the [226] testimony of Johnson himself was that this defendant was not present at the time of the sale and that he did not see him there; that there is no evidence whatsoever that this defendant Arnold Enriquez did sell or give away 11,229 grains of prepared smoking opium, or any grains.

We would like to move for judgment of acquittal on Count 64 of the indictment, which charges Arnold Enriquez with bringing into the United States and import approximately 145 grains of smoking opium, on the grounds there is no evidence before this Court whatsoever of Arnold Enriquez importing or bringing into this country any grains of opium.

We would like to make a motion for judgment of acquittal on Count 65, which charges Arnold Enriquez with concealing and transporting 145 grains of prepared smoking opium, on the grounds that there is no evidence before this Court of any

nature where Arnold Enriquez transported or concealed any grains of prepared smoking opium.

We would like to make a motion for judgment of acquittal on Count 66, which charges Arnold Enriquez with the sale, or fraudulently and feloniously sell, distribute, and give away to one Charles Cobos a certain quantity of prepared [227] smoking opium, approximately 145 grains, when all of the testimony before this Court shows that that sale was made by Joe Martinez, and Mr. Smith testified that Arnold Enriquez was not there at the time said sale was made.

We would like to make motion for judgment of acquittal on Count 67, which charges Arnold Enriquez with importing and bringing into the United States 145 grains of prepared smoking opium, on the grounds that there is no evidence whatsoever of any type before this Court that Arnold Enriquez brought into the United States any grains of prepared smoking opium.

We would like to move for judgment of acquittal on Count 68, which charges Arnold Enriquez with fraudulently receiving, conceal and facilitate the transportation of 145 grains of prepared smoking opium, on the grounds that there is no testimony whatsoever before this Court that Arnold Enriquez transported, concealed or have in his possession any amount of prepared smoking opium.

We would like to move for judgment of acquittal on Count 69 which charges Arnold Enriquez with the sale or distribution or giving away to Charles

Cobos 145 grains of prepared smoking opium, on the grounds that the evidence before this [228] Court shows that the sale was made by one Joe Martinez, and also that Mr. Smith testified that Arnold Enriquez was not present at the time any of this sale was made.

We would like to further make a motion for judgment of acquittal on Count 78, which charges Arnold Enriquez with conspiracy to import and conceal and facilitate the transportation and concealment of narcotic drugs, on the grounds that there is no evidence whatsoever here to show conspiracy or an agreement between Arnold Enriquez and the co-defendants. The only testimony before this Court has been numerous sales by the co-defendants and casual acquaintanceship or casual conversations between Arnold Enriquez and several witnesses. There has been no showing by the Government of any agreement, which is a necessary element of conspiracy, that the only evidence before this Court involving or mentioning Arnold Enriquez at all is the fact that he was approached to purchase some narcotics and he said he could not make any deliveries; that all of the evidence here shows conspiracy between all of the co-defendants except Arnold Enriquez. There has been no tie-up between Arnold Enriquez and the defendants. All of these overt acts were done on [229] the part of the co-defendants and none on the part of Arnold Enriquez, and for that reason there is no—In our opinion, there is no evidence before this Court to tie Arnold En-



riquez up on a conspiracy charge, and we ask for a motion for judgment of acquittal be granted.

Mr. Thurman: With respect to the three substantive counts of the indictment that Mr. Primock argued for the motion of dismissal——

The Court: Nine.

Mr. Thurman: Huh?

The Court: Nine, rather than three.

Mr. Thurman: Well, nine counts, yes, that is split up, that is what I meant.

The Court: Yes.

Mr. Thurman: There are the counts that Mr. Smith testified to concerning Mr. Cobos making a telephone call to the home, or making the call to Arnold Enriquez and then subsequently, Martinez would come, or someone else, with the narcotics. I think that throws Mr. Arnold Enriquez into the case very deliberately and positively under the aiding and abetting act.

The Court: Well, you don't know who they called. They called a telephone number.

Mr. Thurman: They called a telephone number and had a conversation with someone by the name of Pirata, which everybody testified was the nickname of the defendant Arnold Enriquez. That is not substantive evidence, I think the Court has it in mind, but that is the basis of their—but I think if we haven't got enough to show aiding and abetting, then, of course, it is up to the Court to do as it sees fit there, but on the conspiracy, I think



there is plenty to go to the jury on that without much argument. There is more than casual association and casual conversation; the use of that car continuously that belonged to the defendant. They met in the Club and met in his place of business. He was there with them pretty near all the time and, of course, as he told Mr. Colbert, "I am sorry I can't help you out, I would like to take care of you, but there isn't any stuff in town. Art is out of town now, has gone to bring in a load, but he will be here on Friday, but until he brings his stuff back there is no stock here." He also told that to Mr. Johnson. Again, Mr. Arturo Leyvas, I have forgotten which one it is right now, testified to the fact that Arturo told him, naming this defendant, that they were all in it. I think that is sufficient to go to the jury, your Honor. [231]

The Court: Well, there might be enough on the conspiracy count, but there certainly is not enough on the nine substantive counts, so I will grant the motion to 52, 53, 54, 64, 65, 66, 67, 68 and 69, and deny the motion as to the conspiracy count.

Call in the jury.

(Thereupon the jury returned into the courtroom and resumed their place in the jury box.)

The Court: You may proceed.

Mr. Primock: Call Arnold Enriquez.

## ARNOLD ENRIQUEZ

was called as a witness in his own behalf, and being first duly sworn, testified as follows:

## Direct Examination

By Mr. Primock:

Q. Will you state your name, please?

A. Arnold S. Enriquez.

Q. And where do you live, Arnold?

A. 2022 East Moreland.

Q. Phoenix, Arizona?

A. Phoenix, Arizona.

Q. And who do you live with?

A. My wife and five children.

Q. How long have you lived in Phoenix, Arizona? [232] All my life.

Q. You were born here?

A. I was born here, yes.

Q. Arnold, you have been convicted of a felony once, haven't you? A. Yes, sir.

Q. Arnold, do you know Arturo C. Leyvas?

A. Yes, sir.

Q. How long have you known Arturo C. Leyvas?

A. Oh, since we were kids.

Q. How many years would you say that would be? A. Oh, 20, 25 years, I guess.

Q. Do you know Ray C. Leyvas?

A. Yes, sir.

Q. How long have you known Ray C. Leyvas?

A. About the same amount of time.

Q. Do you know Connie Duarte?

A. Yes, sir.

(Testimony of Arnold Enriquez.)

Q. How long have you known Connie Duarte?

A. Well, ever since I can remember.

Q. Do you know Arturo E. Jerez, who is known as Colimo?

A. Yes, sir.

Q. How long have you known him?

A. Same amount of time, I guess.

Q. And do you know Joe Martinez? [233]

A. Yes, sir.

Q. And how long have you known Joe Martinez?

A. Oh, I'd say six or seven years.

Q. And during the period of the 16th day of February, 1948, and the 16th day of February, 1949, did you see all of these people?

A. Yes, sir.

Q. And how often would you see them?

A. Oh, I imagine pretty near every day or so.

Q. What business or occupation were you in during the period of that year?

A. '48?

Q. Between February, 1948, and February, 1949.

A. Well, I just run them camp grounds or that property on Sixteenth.

Q. What camp grounds and property is that?

A. That is the Corona Courts at 1602 East Washington.

Q. You own that property?

A. Me and the Finance Company.

Q. And you manage the operations of it?

A. Yes, sir.

Q. Will you tell the jury just what type of businesses are located on that piece of property?

A. Well, there is about 21 camp grounds or

(Testimony of Arnold Enriquez.)

courts—cottages, I guess you would call it, and [234] there is a store building where there is a saloon or a bar, and there is a restaurant on the side, that is about all.

Q. Were you operating the bar or the restaurant?      A. No, sir.

Q. Did you have it leased?

A. Yes, sir.

Q. And who did you lease the restaurant to?

A. To a man by the name of Pablo Basquez.

Q. And did you operate the bar?

A. No, sir.

Q. Who did you have that leased to?

A. Well, the period in '48 it was leased to the Pan-American Club.

Q. And did they have it all during this period of February, '48 to February, '49?

A. No, I don't think so. I think they only—the Pan-American Club was only there about five months.

Q. And do you recall what five months of that year they were there?

A. Oh, I'd say they were the first six months of that year at that time.

Q. And subsequent to them, who had the lease on the premises? [235]

A. Well, after they closed up I rented it to Nacho Pacheco.

Q. And did he have it in January, '49?

A. Yes, sir.

(Testimony of Arnold Enriquez.)

Q. What type of license did he have in there, if you know?

A. He had a No. 7 license, wine and beer.

Q. And how much rent were you receiving?

A. \$225 a month.

Q. Did you have any interest in the license or the operation of the place of business?

A. No, sir.

Q. Did you have any interest or anything to say in the management of the little restaurant next door to the bar?

A. No, sir.

Q. Now, Arnold, I will ask you whether or not on the 16th of February, 1948, whether or not you knew that Arturo E. Jerez imported and brought into the United States approximately 160 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you whether or not, on the 16th day of February, 1948, whether or not you knew whether Arturo E. Jerez transported and concealed 160 grains of prepared smoking opium? [236]

A. No, sir.

Q. I will ask you, Arnold, whether or not on the 16th day of February, 1948, you knew that Arturo E. Jerez sold to one Viron E. Elkins approximately 160 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, whether or not on the 28th day of February, 1948, if you knew that Arturo E. Jerez imported into the United States 517 grains of prepared smoking opium?

A. No, sir.

(Testimony of Arnold Enriquez.)

Q. I will ask you, Arnold, whether or not, on the 28th day of February, 1948, you knew that Arturo E. Jerez transported and concealed 517 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, whether or not on the 28th day of February, 1948, that you knew that Arturo E. Jerez sold to Viron A. Elkins 517 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, whether or not on the 1st day of May, 1948, you knew that Arturo E. Jerez imported into the United States 517 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, whether or not, on the 1st day of May, 1948, you knew that Arturo E. Jerez transported and concealed 517 grains of prepared smoking opium?

A. No, sir. [237]

Q. I will ask you, Arnold, whether or not on the 1st day of May, 1948, you knew that the defendant Arturo E. Jerez sold to Viron A. Elkins 517 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, if you know—if you did know that on the 22d day of July, 1948, that Arturo E. Jerez imported and brought into the United States 14,583 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, if you know that on the 22d day of July, 1948, that Arturo E. Jerez concealed and transported 14,583 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, if you know that on the 22nd day of July, 1948, that Arturo E. Jerez



(Testimony of Arnold Enriquez.)

sold to one Viron A. Elkins 14,583 grains of prepared smoking opium?      A. No, sir. [238]

Q. I will ask you, Arnold, if on the 19th day of August, 1948, you knew that Arturo E. Jerez imported and brought into the United States 14,583 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you know that on or about the 19th day of August, 1948, Arturo E. Jerez did conceal and transport 14,583 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you, Arnold, whether or not you knew, on the 19th day of August, 1948, that Arturo E. Jerez did sell to one Viron A. Elkins 14,583 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, whether or not you knew, on October 3d, 1948, that Arturo E. Jerez did import and bring into the United States 693 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 3rd day of October, 1948, that Arturo E. Jerez did sell to one Okla Johnson 693 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you whether or not you knew, Arnold, that on the 10th day of October, 1948, that Arturo E. Jerez did import into the United States 351 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you knew that on



(Testimony of Arnold Enriquez.)

the 10th day of October, 1948, that Arturo E. Jerez did conceal and transport 351 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 10th day of October, 1948, that Arturo E. Jerez did sell to one Okla Johnson 351 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you if you knew that on the 29th of October, 1948, that Arturo E. Jerez did bring into the United States 2447 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you if you know that on the 29th day of October, 1948, that Arturo C. Leyvas did conceal and transport 2447 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you if you know that on the 29th day of October, 1948, that Arturo C. Leyvas did sell to one Frank W. Colbert 2447 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you if you know on the 5th day of November, 1948, that Arturo C. Leyvas had imported into the United States 10,192 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you, Arnold, if you know that the defendant Arturo C. Leyvas did transport and conceal 10,192 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you know that on the 5th day of November, 1948, Arturo C. Leyvas did sell to one Okla W. Johnson 10,192 grains of prepared smoking opium?      A. No, sir.

(Testimony of Arnold Enriquez.)

Q. I will ask you, Arnold, if, on or about the 11th day of November, 1948, you know that Connie Duarte imported into the United States 15-3/4 grains of a morphine derivative, namely, heroin?

A. No, sir.

Q. I will ask you, Arnold, if you know that Connie Duarte, on the 11th day of November, 1948, did transport and conceal 15 $\frac{3}{4}$  grains of a morphine derivative, namely, heroin?

A. No, sir.

Q. I will ask you, Arnold, if you know that on the 11th day of November, 1948, that the defendant, Connie Duarte, did sell to one, Frank W. Colbert, 15 $\frac{3}{4}$  grains of heroin. A. No, sir.

Q. I will ask you, Arnold, if you know that on the 14th day of November, 1948, that Connie Duarte did import into the United States 118 grains of a morphine derivative, namely, heroin?

A. No, sir.

Q. I will ask you, Arnold, if you know that on or about the 14th day of November, 1948, that Connie Duarte did conceal and transport 118 grains of a morphine derivative, namely, heroin?

A. No, sir.

Q. I will ask you, Arnold, if you know that on or about the 14th day of November, 1948, Connie Duarte did sell 118 grains of heroin to one, Okla W. Johnson? A. No, sir. [242]

Q. I will ask you, Arnold, if you know that on or about the 17th day of November, 1948, that Arturo C. Leyvas and Connie Duarte did import and

(Testimony of Arnold Enriquez.)

bring into the United States 381 grains of a morphine derivative, namely, heroin?      A. No, sir.

Q. I will ask you, Arnold, if you know that on or about the 17th day of November, 1948, that Arturo C. Leyvas and Connie Duarte did conceal and transport 381 grains of a morphine derivative, namely, heroin?      A. No, sir.

Q. I will ask you, Arnold, whether or not you knew—Strike that. I will ask you, Arnold, if you knew that on the 17th day of November, 1948, Arturo C. Leyvas and Connie Duarte did sell to one, Okla W. Johnson, 381 grains of heroin?

A. No, sir.

Q. And I will ask you, Arnold, if you know that on the 16th day of December, 1948, that Arturo C. Leyvas did import and bring into the United States 2½ grains of an opium derivative, namely, morphine hydrochloride?      A. No, sir.

Q. I will ask you, Arnold, if you know that on the 16th day of December, 1948, that Arturo C. [243] Leyvas did conceal and transport 2½ grains of an opium derivative, namely, morphine hydrochloride?      A. No, sir.

Q. I will ask you, Arnold, if you know that on the 16th day of December, 1948, that the defendant Arturo C. Leyvas did sell to one Viron A. Elkins 2½ grains of morphine hydrochloride?

A. No, sir.

Q. I will ask you if you knew, Arnold, on the 16th day of December, 1948, Arturo C. Leyvas did bring and import into the United States 378 grains

(Testimony of Arnold Enriquez.)

of a morphine derivative, namely, heroin hydrochloride?      A. No, sir.

Q. I will ask you, Arnold, whether you know that on the 16th day of December, 1948, that Arturo C. Leyvas did transport and conceal 378 grains of a morphine derivative, namely, heroin?

A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 16th day of December, 1948, that the defendant Arturo C. Leyvas did sell to one Viron A. Elkins 378 grains of heroin hydrochloride?

A. No, sir.

Q. I will ask you if you know, Arnold, that [244] on the 8th day of January, 1949, that the defendant Joe Martinez did import into the United States 179 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 8th day of January, 1949, that Joe Martinez did transport and conceal 179 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you, Arnold, if you know that on the 8th day of January, 1949, that Joe Martinez did sell to one Charles Cobos 179 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 14th day of January, 1949, that Arturo C. Leyvas did import into the United States 5¼ grains of an opium derivative, namely, morphine hydrochloride?      A. No, sir.

Q. I will also ask you, Arnold, whether you

(Testimony of Arnold Enriquez.)

know that on the 14th day of January, 1949, that Arturo C. Leyvas did conceal and transport  $5\frac{1}{4}$  grains of an opium derivative, namely, morphine hydrochloride?      A. No, sir. [245]

Q. I will ask you, Arnold, if you know that on the 14th day of January, 1949, Arturo C. Leyvas did sell to one Viron A. Elkins  $5\frac{1}{4}$  grains of morphine hydrochloride?      A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 14th day of January, 1949, Arturo C. Leyvas did import and bring into the United States 235 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 14th day of January, 1949, Arturo C. Leyvas did conceal and transport 235 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you, Arnold, if you know that on the 14th day of January, 1949, Arturo C. Leyvas did sell to one Viron A. Elkins 235 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you, Arnold, if you knew Arturo C. Leyvas and Arturo Jerez did import and bring into the United States approximately 11,229 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you if you knew whether or not Arturo C. Leyvas and Arthur Jerez brought 11,229 grains of prepared smoking opium into the United States?      A. No, sir.

Q. I will ask you, Arnold, if you and Arturo C. Leyvas and Arturo Jerez did transport and conceal

(Testimony of Arnold Enriquez.)

11,229 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you whether or not you knew that Arturo C. Leyvas and Arturo Jerez transported and concealed 11,229 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, whether or not you and Arturo C. Leyvas and Arturo Jerez did sell to one Okla W. Johnson 11,229 grains of prepared smoking opium? A. No, sir.

Q. I will ask you whether or not you knew that on the 14th day of January, 1949, that Arturo C. Leyvas and Arturo Jerez did sell to one Okla W. Johnson 11,229 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you know that on the 15th day of January, 1949, that Joe Martinez did import into the United States 235 grains of prepared smoking opium? [247]

A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 15th day of January, 1949, that Joe Martinez did transport and conceal 235 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, if you know that Joe Martinez, on the 15th day of January, 1949, sold to one Charlie Cobos 235 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, if, on the 29th day



(Testimony of Arnold Enriquez.)

of January, 1949, you knew that Joe Martinez, on that date, did import and bring into the United States 2625 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 29th day of January, 1949, that Joe Martinez did transport and conceal 2625 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 29th day of January, 1949, that Joe Martinez did sell to one Okla W. Johnson 2625 grains of prepared smoking opium?

A. No, sir. [248]

Q. I will ask you, Arnold, if you knew that on the 2d day of February, 1949, Connie Duarte did import and bring into the United States 287 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 2d day of February, 1949, that Connie Duarte did transport and conceal 287 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you knew that on the 2d day of February, 1949, that Connie Duarte did sell to one Viron A. Elkins, 287 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you and Joe Martinez did, on the 6th day of February, 1949, import and bring into the United States approximately 145 grains of prepared smoking opium.

A. We did not.

Q. I will ask you if you know that Joe Martinez brought into the United States 145 grains of pre-



(Testimony of Arnold Enriquez.)

pared smoking opium? A. No, sir.

Q. I will ask you, Arnold, if you and Joe Martinez did, on the 6th day of February, 1949, [249] conceal and transport 145 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, whether or not you know that Joe Martinez did conceal and transport 145 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you, Arnold, if you and Joe Martinez did, on the 6th day of February, 1949, sell to one Charles Cobos 145 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, whether or not you know that Joe Martinez did on the 6th day of February, 1949, sell to one Charles Cobos 145 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, whether or not you know—whether you, Arturo C. Leyvas and Joe Martinez did bring into the United States, on the 8th day of February, 1949, 145 grains of prepared smoking opium? A. No, sir.

Q. I will ask you, Arnold, whether or not you brought in 145 grains of prepared smoking opium on the 8th day of February, 1949. [250]

A. No, sir.

Q. I will ask you, Arnold, whether or not Arturo C. Leyvas and Joe Martinez did, of your own knowledge, bring into the United States on the 8th day of February, 1949, 145 grains of prepared smoking opium?

(Testimony of Arnold Enriquez.)

A. Not to my knowledge, no, sir.

Q. I will ask you, Arnold, whether or not on the 8th day of February, 1949, that you, Arturo C. Leyvas and Joe Martinez did transport and conceal 145 grains of prepared smoking opium?

A. No, sir.

Q. I will ask you whether or not you, Arnold Enriquez, transported or concealed 145 grains of prepared smoking opium? A. No, sir.

Q. I will ask you whether or not Arturo C. Leyvas and Joe Martinez, of your own knowledge, did transport and conceal 145 grains of prepared smoking opium?

A. Not to my knowledge, no, sir.

Q. I will ask you whether or not, on the 8th day of February, 1949, if you, Arturo C. Leyvas and Joe Martinez did sell to Charles Cobos 145 grains of prepared smoking opium?

A. No, sir. [251]

Q. I will ask you, Arnold, whether or not you did, on the 8th day of February, 1949, sell to one Charles Cobos 145 grains of prepared smoking opium? A. No, sir.

Q. I will ask you whether or not, to your own knowledge, Arturo C. Leyvas and/or Joe Martinez did sell to one, Charles Cobos, 145 grains of prepared smoking opium?

A. Not to my knowledge, no, sir.

Q. I will ask you whether or not you knew, on the 8th day of February, 1949, that Arturo C. Leyvas did bring and import into the United States

(Testimony of Arnold Enriquez.)

approximately 188 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you whether or not, on the 8th day of February, 1949, you know that Arturo C. Leyvas did conceal and transport 188 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you whether or not you knew that on the 8th day of February, 1949, Arturo C. Leyvas did sell to one Viron A. Elkins 188 grains of prepared smoking opium?      A. No, sir.

Q. I will ask you further, Arnold, if you know that on the 8th day of February, 1949, Connie [252] Duarte did import and bring into the United States  $1\frac{3}{4}$  grains of a morphine derivative, namely, heroin hydrochloride?      A. No, sir.

Q. I will ask you, Arnold, that if you knew that on the 14th day of February, 1949, that Connie Duarte did transport and conceal  $1\frac{3}{4}$  grains of a morphine derivative, namely, heroin hydrochloride?      A. No, sir.

Q. I will ask you whether or not, on the 14th day of February, 1949, that you knew that Connie Duarte did sell to one Viron A. Elkins  $1\frac{3}{4}$  grains of heroin hydrochloride?      A. No, sir.

Q. I will ask you if you know that on the 15th day of February, 1949, that Ray C. Leyvas did import and bring into the United States approximately 24 grains of prepared smoking opium and approximately 15 grains of an opium derivative, namely, yen shee?      A. No, sir.

(Testimony of Arnold Enriquez.)

Q. I will ask you, Arnold, that if you knew on the 15th day of February, 1949, that Ray C. Leyvas did transport and conceal 24 grains of prepared smoking opium and approximately 15 grains of an opium derivative, namely, yen shee? [253]

A. No, sir.

Q. Now, I want to ask you, Arnold, whether or not you, Arturo C. Leyvas, Ray Leyvas, Connie Duarte, Arturo E. Jerez and Joe Martinez did agree amongst yourselves, or with each other, for the purposes of importing narcotics, transporting narcotics, and the sale of narcotics?

A. No, sir.

Q. I will ask you whether or not you knew that Arturo Jerez offered to sell Viron Elkins prepared smoking opium?

A. No, sir.

Q. Do you know Viron A. Elkins?

A. No. I know him now, but I didn't know him then.

Q. Prior to the time of your arrest, had you ever seen Viron Elkins, to your knowledge?

A. No, sir; not to my knowledge.

Q. Did you have a conversation with Viron A. Elkins about anything whatsoever?

A. No, sir.

Q. You heard all the testimony this morning concerning the sales that were made to Viron A. Elkins by all of the other people mentioned, Art Leyvas and Ray Leyvas, Connie Duarte, and Joe Martinez.

(Testimony of Arnold Enriquez.)

Were you present at any of the times that [254] such sale was discussed or that such sale was consummated?      A. No, never.

Q. Did you of your own knowledge know that any such sales were made?      A. No, sir.

Q. You heard all of the testimony concerning the sales made to Okla W. Johnson?

A. Yes, sir.

Q. You heard that in court yesterday and today?

A. Yes, sir.

Q. Were you present at any time when there was any discussion concerning such sales to Okla W. Johnson?      A. No, sir.

Q. Were you present in any conversation, or at the time that the said sales were consummated to Okla W. Johnson?      A. No, sir.

Q. Did you know Okla W. Johnson?

A. Well, I met him during that period when the Club was going.

Q. Did Okla W. Johnson, did you make any sales at all to Okla W. Johnson?      A. No, sir.

Q. I believe I asked you whether or not [255] you knew whether any sales had been made to Okla W. Johnson?      A. You did ask me.

Q. What was your answer?

A. I didn't know.

Q. I will ask you whether or not you know Frank Colbert?      A. Yes, I know him.

Q. How long have you known Frank Colbert?

A. Well, the first time I ever met him was in '44.

(Testimony of Arnold Enriquez.)

Q. Now, you heard Frank Colbert testify today, did you not?      A. Yes, sir.

Q. Did you see him at the prize fights on January 12th, 1949?      A. Yes, sir.

Q. Did you have any conversations with him?

A. Well, if you would call it a conversation, I guess so.

Q. You and he speak to each other?

A. Yes.

Q. Was anyone else present besides you and he?

A. No.

Q. Will you relate to the Court and jury just exactly what took place at that time on [256] January 12th, 1949?

A. Well, Joe Martinez and myself went to these fights, and during the fights, oh, I don't know which fight was going on, it was preliminaries, Frank Colbert came up to me where I was sitting and said he wanted to talk to me, so I told him I'd see him after the fights, so after the fights, as we were going out the door he called me to the side and we went across a car that was parked there at the curb, and he asked me if I could get him any stuff, or any opium. I told him that I didn't know anything about it. Well, he said he was sick and he needed some opium for himself and another friend of his, and I said I didn't know anything about it, so he told me that he was waiting for Art and that Art would take care of him, so I told him to see Art. "Well," he says, "When is Art coming back?" I said, "I



(Testimony of Arnold Enriquez.)

don't know, a couple or three days," and I left, and that is all the conversation I had with him.

Q. Well, do you recall the day following this conversation with Mr. Colbert, which would be January 13th, 1949, you recall a conversation between you and Mr. Johnson?           A. Yes, sir.

Q. And where did that conversation take [257] place?

A. That took place at the Club there, at Pacheco's Inn, or Pirata's Inn, whatever the name.

Q. What was the name of it in January, '49?

A. I think it was—left the same name, I think it was Pirata's Star Bar.

Q. Was anybody else present at that time?

A. The bartender, Mr. Pacheco.

Q. What time of day or night was this?

A. Well, it was in the afternoon. I don't remember exactly the time it was, but it was in the afternoon.

Q. Will you relate to the Court and jury exactly what that conversation was?

A. Sure. As I remember, Joe Martinez and myself walked in the Club, and this fellow Johnson was sitting at the bar, so we came in, and he was drinking a bottle of beer and eating a hard boiled egg, so I sat right next to him, I guess, or a couple of stools from him, or one stool, and he said, "Hello," so I said, "Hello," and I ordered a bottle of beer and an egg, and so did Mr. Pacheco, he was there all the time with us, and nobody else in the



(Testimony of Arnold Enriquez.)

club at the time, so we were talking about the sign, or something, I forget what we were talking about, and as we paid Mr. Pacheco and he went to ring up the money, Mr. [258] Johnson asked me if I could get him some stuff. I told him I didn't know anything about it. "Well," he said, "Art is supposed to take care of me." I said, "You see Arturo." He said, "Where is he?" I said, "I don't know, I think he is out of town, I heard he was," so he said, "Well," he said, "Couldn't you do me any good at all?" I said, "No, I don't know anything about it," so about that time Mr. Pacheco was coming back and we started talking about something else, and that is all that was said.

Q. What kind of a car did you own during this period, Mr. Enriquez?

A. It was a Cadillac, '42 Cadillac.

Q. What color was that?

A. Well, it was blue one time, and it was green, the last time it was green.

Q. It was both colors during this period?

A. Yes. First it was blue and then it was green.

Q. Did you ever loan your car to anybody?

A. Most of the time Joe Martinez had it.

Q. And why did Joe Martinez have it?

A. Well, at the time he was managing the Club.

Q. Which club?

A. Mine, Pirata's Star Club.

Q. And after you closed up your club, who [259] would use the automobile?

(Testimony of Arnold Enriquez.)

A. Joe would. He still had it.

Q. Did you ever loan your automobile to anybody other than Joe Martinez?

A. Oh, I lent it to, I don't know, I'd say, I don't know how many, everybody used it.

Q. Well, would you name to the Court and jury some other people that you loaned the automobile to?

A. Well, Joe had it most of the time. I let this fellow Colimo have it once in a while. He used to borrow it from me, and this fellow Murphy, of the Police Department, he is a Detective, he went to Frisco, National Park. You went to Tucson, or some place with it. Duke Burke, he used it.

Q. All of these times you have related, was that during the period of February, '48 and February, '49?

A. Yes. In fact, Joe Martinez had my car day and night, and Mr. Smith, he knows that he did, because he followed him around and followed me around when I was not in it. He knew who had it most of the times.

Q. Now, Mr. Enriquez, you were present this morning when Mr. Mike Sandoval testified, were you not?

A. Yes, sir. [260]

Q. Did you see him on the 26th day of December, 1948, at the home of Ray Leyvas?

A. I guess I did.

Q. He testified that Ray, Art, "Colimo" were smoking opium. Did you walk in and see them?

(Testimony of Arnold Enriquez.)

A. No, sir.

Q. I will ask you whether or not, on the 26th of December, 1948, you smoked any opium?

A. No, sir.

Q. You heard him further testify that a day or two after that you went over to the Coast?

A. That is right.

Q. And who went with you?

A. Well, there was Art and this fellow Colimo and this Mike, myself, and a fellow by the name of Manuel Gomez.

Q. And what was the purpose in going to the Coast?

A. We were going to the fights in Los Angeles.

Q. Do you remember the name of the fights?

A. If I am not mistaken, I think it was Bollanos and Ike Williams.

Q. You are an ardent fight fan, are you not?

A. I go every week, yes.

Q. You go in Phoenix every week?

A. Yes. [261]

Q. You make trips out of town to see good fights?

A. Yes, sir.

Q. I will ask you whether or not on this trip over to the Coast to see this fight, whether or not anything was discussed concerning the importation, transportation, concealment or sale of narcotics of any type?

A. No, sir we didn't talk anything about narcotics.

(Testimony of Arnold Enriquez.)

Q. Whose car did you go in to the Coast?

A. In my own Cadillac.

Q. That is the green Cadillac? A. Yes.

Q. Is your telephone number 4-3914?

A. That is right.

Q. Is that listed in the telephone book?

A. It has always been listed.

Q. How long have you had that telephone number?

A. Oh, I guess since '41 or '42, whenever I bought that house.

Q. Have you ever seen any of these exhibits here prior to the time of coming into court?

A. No, sir.

Q. Did you know whether or not any of these exhibits were in the possession of the people [262] that the witnesses have testified about?

A. No, sir.

Q. The first time you saw them was yesterday and today? A. Yes, sir.

Q. Have you ever been by the mattress factory of Art Leyvas?

A. Have I ever been by there, been there?

Q. Yes. A. Yes.

Q. Where is it located?

A. 1501 East Adams.

Q. Would you say you were by there often?

A. Oh, yes, I was there pretty often.

Q. Did you ever see Elkins at the mattress factory? A. No, sir.

(Testimony of Arnold Enriquez.)

Q. Were you ever at Elkins' home at Tempe?

A. No, sir.

Q. Do you know Robert Lorenz?

A. Yes, I know him now.

Q. Did you know him during the period of February, '48 to February, '49?

A. Well, I don't exactly remember when I met him, but it was in the latter part of '48, I think.

Q. Do you know Charlie Cobos? [263]

A. Yes, sir.

Q. How long have you known Charlie Cobos?

A. I know him since '44, I guess.

Q. Did you ever sell any narcotics to Charlie Cobos?      A. No, sir.

Q. Now, directing your attention, Arnold, to the night that you were arrested; it was the early morning of February 15th?

A. Well, I think it was.

Q. Where were you just prior to being arrested?

A. Well, that night we had been to the show or some place, and we come back to Connie's at 1030 East Moreland, oh, I'd say around 11:00 o'clock—10:30 or 11:00 o'clock, and we sat there playing cards until about 1:30, or something like that, so Mike and Joe Martinez and myself thought we would go down to Dick's and get a sandwich.

Q. Who is Mike?      A. Sandoval.

Q. The witness that testified here?

A. Yes, sir.

(Testimony of Arnold Enriquez.)

Q. And you and he and Joe Martinez were going to go where?

A. We got in the car, drove over to Dick's, [264] on Eleventh Street—Well, it would be on Fourteenth Street and McDowell.

Q. And did you eat your sandwich.

A. Yes.

Q. Then what happened?

A. Well, we got out of Dick's and got in the car and drove to Eleventh Street. We drove west on McDowell and as we turned on Eleventh Street, Mr. Lorenz and three or four more agents come up to the side of me and told me to stop the car, and so I did.

Q. Then what happened?

A. And Mr. Lorenz and the other agents got off and they made us get off and they searched us, so, I forget who they took, Mike or they took Joe with them in their car, and some of them went in my car, and they drove off. We drove up on Van Buren to 24th or 26th Street to some camp grounds up there where Mr. Bump and Agent Simpson, I forget who else was there. There was about 15 there or 20, I don't know.

Q. During the period of February, 1948, and February, '49, did you at any time have any narcotics of any type, kind or description in your possession?

A. No, sir. [265]

Q. Do you know of any sales of any narcotics during that time?

A. No, sir.

Mr. Primock: That is all. You may examine.

(Testimony of Arnold Enriquez.)

Cross-Examination

By Mr. Thurman:

Q. When you were arrested at—You had 3201 Mexican pesos?      A. When I was what?

Q. Arrested on the 15th of February.

A. No, sir.

Q. You didn't.      A. No, sir.

Q. How many times have you been arrested?

Mr. Primock: I object to that.

The Court: Yes, the objection is sustained.

Mr. Thurman: I mean pertaining to the time you were arrested here in this case.      A. Yes.

Q. How much Mexican money did you have on you?

A. I didn't have no Mexican money that night.

Q. No Mexican pesos at all?      A. No, sir.

Q. And in addition to that you had \$197.85, [266] didn't you?

A. That is right, something like that.

Q. And didn't Mr. Bump check the money you had on you after you were arrested?

A. Yes, sir; Mr. Smith, he did, or somebody did.

Q. Huh?

A. Mr. Bump or Mr. Smith, or somebody there. There was about 15 there. They all checked it.

Q. You say you got \$225 a month for the lease on this property?      A. I still get it.

Q. What else do you do besides receiving rent from the Inn?

A. I get \$100 a month on the restaurant, I get



(Testimony of Arnold Enriquez.)

about eight dollars from the cabins each week.

Q. So your net income from that business is approximately \$1000 a month? A. Yes.

Q. That is net, if you understand what I mean by "net"?

A. Yes, that is \$1000 a month gross.

Q. Clear?

A. No, it is not clear, it is gross.

Q. It is gross? A. Gross, yes.

Q. Now, during the period of this particular case, you were at the Club and at the premises pretty near continuously, weren't you?

A. No, I wouldn't say that.

Q. You weren't? A. No, sir.

Q. Wasn't Joe Martinez Secretary of the Club?

A. He was managing the Club. He was President—He was President of the Pan-American Club.

Q. Huh?

A. He was President of the Pan-American Club.

Q. President of the Pan-American Club?

A. Yes, sir.

Q. And a very close friend of yours?

A. Yes, sir.

Q. And he was there all the time, wasn't he?

A. Well, he lived upstairs.

Q. He lived upstairs. A. Yes, sir.

Q. And Colimo was also—Mr. Jerez, he was there all the time too, wasn't he?

A. No, I wouldn't say he was.

Q. How do you know he was not there all the time?

(Testimony of Arnold Enriquez.)

A. Well, because I met him a lot of places besides there.

Q. You were around with him quite a bit?

A. No, I wouldn't say that.

Q. You were around with Joe Martinez [268] quite a bit?

A. Well, I go around with him to the fights, probably, see him at the fights.

Q. You testified on direct examination he followed you around?

A. Who followed me around?

Q. Joe Martinez.

A. I didn't; I didn't say any such thing.

Q. He had your car most of the time?

A. That is right.

Q. Jerez would have it too, didn't he?

A. No, I only let Colimo have it probably once or twice.

Q. And you mean to tell the Court and jury that you knew nothing of the activities of this man Jerez and this man Martinez with respect to the sale of narcotics?

A. No, I didn't know anything about it, no.

Q. Now, when you had this conversation with Mr. Okla Johnson at the bar, at the time when you had the beer and the egg and he also had a beer and an egg, I believe, you said there was a bartender there by the name of Pacheco, is that right?

A. That is correct.

Q. When you were discussing this fact situation

(Testimony of Arnold Enriquez.)

with Johnson, the bartender went down to [269] ring up the change, is that right?

A. That is right.

Q. The money, or whatever it was?

A. That is right.

Q. How far did he go from where you were to where the cash register was?

A. About from here to where you are sitting.

Q. And at that time when Johnson said to you, "I have got to get some stuff to keep my people satisfied," you told him at that time and place that Arturo Levayas was on the Coast and he would be back and he would see that he got fixed up, or words to that effect, did you not?

A. No, sir; he didn't even talk about that. He didn't use them words at all.

Q. And again, Mr. Colbert, at the time that he met you at the fights, that story that he told this Court and jury is something that never happened, isn't that correct. In other words, you never told him that Art was on the Coast and as soon as Art got back he would fix him up, you never said that, or anything like that?

A. No, I might have said something not like that. I told him I didn't have anything to do with Art, to see him, it wasn't any of my business.

Q. Now, when you left—What day did [270] you leave to go to the Coast with Arturo and this other bunch of boys?

A. Well, I don't remember the exact date.

Q. You left on the 25th of February, didn't you,

(Testimony of Arnold Enriquez.)

and you were driving your Cadillac car, and in that car was Arturo Leyvas and Jerez?

A. That is right.

Q. And this boy Sandoval that testified in this case? A. Yes, sir, and Gomez, yes.

Q. And another boy named Gomez?

A. Yes.

Q. You were on your way to Tijuana, weren't you? A. No, sir.

Q. Did you get to the fights? A. No.

Q. When did you first meet this man Okla Johnson, did you say?

A. Oh, I don't exactly remember what the day was, but it was during that time when that Club was in force, that Pan-American Club.

Q. You were a member of the Club, weren't you?

A. Yes, sir.

Q. And did you know Okla Johnson's business?

A. No, sir.

Q. Now, I want to show you Government's [271] Exhibit 23, 22 and 19. This is Government's Exhibit 23 in evidence. I want you to look at it. Did you ever see that exhibit before? A. No, sir.

Q. Isn't that the stuff that you sold to Mr. Cobos? A. No, sir.

Q. Are you positive about that?

A. Positive.

Q. Handing you Government's Exhibit 22 for identification. I want you to take a look at it and examine it and see if you have seen that before?

(Testimony of Arnold Enriquez.)

A. No, sir.

Q. Well, you are looking at it now.

A. I see it now.

Q. I want you to be sure you see it now.

A. I see it now.

Q. And this is also an exhibit that you sold to Mr. Cobos in which you and Joe Martinez delivered it to him, didn't you?      A. No, sir.

Q. I show you Government's Exhibit 19 in evidence. Take a look at that exhibit, please. Have you ever seen that before?

A. No, sir. I do now.

Q. You never saw this before? [272]

A. No, sir.

Q. In fact, this is the same opium, smoking opium, that you sold to Charlie Cobos, is it not?

A. I never sold opium to nobody.

Q. Never?      A. Never.

Q. Do you know where Charlie Cobos is now?

A. No, sir.

Mr. Thurman: That is all.

Mr. Primock: That is all.

(The witness was excused.)

The Court: We will have our afternoon recess at this time. Keep in mind the Court's admonition.

(A brief recess was taken, after which, all parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:)

Mr. Primock: Call Ed Marshall.

## ED MARSHALL

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

## Direct Examination

By Mr. Primock:

Q. Will you state your name, please?

A. Ed Marshall.

Q. And what is your occupation? [273]

A. Chief Investigator for the Department of Liquor Licenses and Control, State of Arizona.

Q. And in that capacity, do you handle the records of all the liquor licenses for the County of Maricopa, State of Arizona. A. I do.

Q. You are here under subpoena, are you not?

A. I am.

Q. And did you bring with you the records pertaining to the liquor license of Nacho Pacheco?

A. The name is Y. M. Pacheco.

Q. What is the name?

A. Y. M. Pacheco.

Q. Do you have this with you? A. I do.

Mr. Primock: Mark this.

Mr. Thurman: Never mind marking it.

Mr. Primock: You will stipulate?

Mr. Thurman: The liquor representative brought it here, he is qualified to be okay.

Q. (By Mr. Primock): Will you look at these records and tell the jury the period of time that the liquor license with the name of Y. M. Pacheco located at 1602 East Washington Street, City of Phoenix, Arizona, was in effect?

(Testimony of Ed Marshall.)

A. On November 26, 1948, we received [274] what we call a place to place application transferring Series 7 Beer and Wine License No. 1901 East Madison Street to 1602 East Washington Street. This application was posted and it was granted to that location on December 9th, 1948.

Q. And when was it transferred out of that location?

A. On August 22nd, 1949, the application was filed with the State Department of Liquor Licenses and Control to transfer from Y. M. Pacheco to Patrick Caramenta, which is a person to person transfer. That means the license remains at the same location under different ownership, which was granted on September 7th, 1949.

Mr. Primock: That is all. You may cross-examine.

### Cross-Examination

By Mr. Thurman:

Q. 1602 East Washington Street, is that what Pirata's Inn is?

A. That was Pirata's Inn.

Q. Now, prior to November 26th, 1948, in whose name was this particular beverage license in?

A. I will have to testify from memory.

Q. If you know; if you know, that is all right.

A. I know that there was a license there at [275] one time, but as to dates, I can't give you the exact date or exact year.

Q. Well, say, during the year 1945, was it not a



(Testimony of Ed Marshall.)

fact that the beer or wine, whatever license it was for liquor at 1602 East Washington Street was in the name of Arnold Enriquez?

Mr. Primock: Just a minute. I am going to object to that as being too remote, and immaterial.

The Court: I don't see what that would have to do with it.

Mr. Thurman: What is that? I don't understand.

The Court: Well, what is the purpose of it?

Mr. Thurman: Well, I want to show that he had the Inn at one time and there was a certain thing happened and then he got rid of it.

The Court: Well, all right, go ahead.

A. At one time Arnold Enriquez did have a license at 1602 East Washington. It was a Series 6 license permitting the sale of all liquors.

Q. And during the year '45, he had it transferred, didn't he?

A. As I said, he had it transferred, but from memory I am not going to try to say——

Q. Did you have any knowledge; didn't you hear about him having been convicted of handling narcotics? [276]

Mr. Primock: I am going to object to that and move that it be stricken.

The Court: Well, he is refreshing his memory, possibly.

Q. (By Mr. Thurman): Do you remember that incident?

Mr. Primock: We will further object to it on the ground it is hearsay, your Honor, he heard something.

(Testimony of Ed Marshall.)

Mr. Thurman: I am trying to fix the record, what the conviction is, already in, which is not prejudicial to the defendant.

The Court: All right.

Q. (By Mr. Thurman): Do you remember that incident?

A. I remember the incident of Arnold Enriquez being arrested and subsequently the license was transferred.

Q. And that is due to the fact, was it not, that a person who has been convicted of a felony, can they have a license?

A. Not for a period of two years.

Mr. Thurman: Not for a period of two years. That is all.

Mr. Primock: That is all.

(The witness was excused.)

Mr. Primock: The defense rests, your Honor. At this time we would like to reurge our [277] motion made at the close of the case of the United States of America.

The Court: Motion is denied. Do you have any rebuttal?

Mr. Thurman: No, your Honor.

The Court: All right. Let's see, it is ten minutes of 4:00 now. Well, we will suspend until 10:00 in the morning, gentlemen. Keep in mind the Court's admonition.

(Thereupon a recess was taken at 3:50 o'clock of the same day.) [278]

April 28, 1950.

### COURT'S INSTRUCTIONS

All parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:

The Court: You may proceed.

(Whereupon closing arguments were presented to the jury by counsel for both sides, after which the court instructed the jury as follows:)

The Court: It now becomes the Court's duty, gentlemen, to instruct you as to the law that applies to this case.

You will be permitted to take the indictment to the jury room with you. You will probably notice that it contains 78 counts. I think that is correct—yes, 78 counts. However, the count upon which the defendant is on trial is the last, the 78th. He is charged with the other defendants; that is, Arturo Leyvas, Ray C. Leyvas, Connie Duarte, Arturo E. Jerez and Joe Martinez, with the crime of conspiracy.

Now, "conspiracy" is merely an agreement, but I will give you the definition from the Code in a moment. That is all it means. It means an agreement to commit an offense. For example, if A and B should decide and agree they were going to kill C, they go out and buy a pistol to [279] accomplish that purpose, then they are guilty of a conspiracy. Of course, should they go ahead and shoot C and kill him, they will be guilty of murder, but when they

entered into that unlawful agreement to do this overt act and buy the pistol, then they are guilty of conspiracy.

Now, this Count 78 charges as follows:

“That in the month of February, 1948, and continuing thereafter until on or about the 16th day of February, 1949, in the County of Maricopa, Arizona, and within the District of Arizona, and at other places to the Grand Jurors unknown, the said defendants, Arturo C. Leyvas, Arnold Enriquez, Ray C. Leyvas, Connie Duarte, Arturo E. Jerez and Joe Martinez, the identical persons named as defendants in one or more of the above and foregoing 76 counts of this indictment, and in this count hereinafter referred to as the conspirators, did wilfully, knowingly, and feloniously conspire, combine, confederate and agree between themselves and each other, and other persons to the Grand Jurors unknown, to commit the divers offenses charged against said defendants in the first 76 counts of this indictment preceding this count, and made offenses by Title 21 U.S.C.A. 174.” [280]

Now, Title 21 U.S.C.A. 174 reads as follows: This is one of the offenses they were charged in conspiring to commit:

“If any person fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or assist in so doing or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any

such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, such persons shall upon conviction be punished as the act provides," and

"Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury."

Now, as I say, they were charged with conspiring to commit the offenses I have just read, and also Section 2554(a) of Title 26, which reads as follows:

"It shall be unlawful for any person to sell, barter, exchange, or give away any of the drugs [281] mentioned in Section 2550(a) except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Secretary."

The drugs mentioned in 2550(a) are as follows:

"There shall be levied, assessed, collected, and paid upon opium, isonipecaine, coca leaves, opiate, any compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce. The tax imposed by this subsection shall be in addition to any import duty imposed on the aforesaid drugs."

Now, Paragraph 2 of Count 78 reads as follows:

“That the object of said conspiracy was knowingly, unlawfully, wilfully and fraudulently, in said District of Arizona, to import and bring into the United States, and cause to be imported and brought into the United States, prepared smoking opium, morphine hydrochloride, an opium derivative, heroin hydrochloride, a morphine derivative, and yen shee, an opium derivative, [282] and to wilfully and fraudulently receive, conceal and facilitate the transportation and concealment, after the unlawful importation thereof, of the above named narcotic drugs; and further, to unlawfully, fraudulently and feloniously sell, distribute and give away to divers persons, certain quantities of the said narcotic drugs, not in pursuance of written orders from the transferees to the said conspirators, on forms issued in blank for that purpose by the Secretary of the Treasury of the United States, as required by virtue of Title 26 U.S.C.A., 2554(a); that in furtherance of said conspiracy and to effect the object thereof, the said conspirators did, among others, commit the following overt acts, to wit:

That is in connection with what I told you about A and B conspiring to kill C. They entered into an agreement and went out and bought a pistol. The buying of the pistol is an overt act.

The overt acts set out in this count are as follows:

“(a) That at the time and place as alleged in each of the first 77 counts of this indictment, each of the said conspirators committed the offense charged



against said conspirators in each of said counts, in the manner charged therein, the [283] allegations concerning which in said counts are hereby incorporated by reference thereto in this count as fully and with like effect, for all purposes, as though the same were here reiterated and repeated.

“(b) That on or about February 15, 1948, at Tempe, Arizona, the conspirator, Arturo Jerez, offered to sell one Viron A. Elkins prepared smoking opium.

“(c) That on or about December 15, 1948, at Phoenix, Arizona, conspirator Ray Leyvas had a conversation with one Viron A. Elkins.

“(d) That on or about December 15, 1948, at Phoenix, Arizona, Conspirator Ray Leyvas told one Viron A. Elkins that he thought he could get the said Viron A. Elkins an ounce of heroin.

“(e) That on or about the 16th day of December, 1948, at Tempe, Arizona, the conspirator Ray Leyvas informed the said Viron A. Elkins that he would bring the heroin to him about 5:30 p.m. that day.

“(f) That on or about the 16th day of December, 1948, at Tempe, Arizona, Conspirator Ray Leyvas, in company with Conspirators Connie Duarte and Arturo C. Leyvas, introduced the said Arturo C. Leyvas to the said Viron A. Elkins as [284] his brother.

“(g) That on or about the 16th day of Decem-



ber, 1948, at Tempe, Arizona, Conspirator Arturo C. Leyvas delivered to the said Viron A. Elkins a capsule containing white powder.

“(h) That on or about January 8, 1949, at Phoenix, Arizona, Conspirator Arnold Enriquez told one Charles Cobos that he would deliver to him a small jar of smoking opium for the price of \$50.”

There wasn't any evidence of that that I remember. I read that inadvertently. Disregard that.

“(j) That on or about January 12, 1949, at Phoenix, Arizona, Conspirator Arnold Enriquez told one Frank W. Colbert that ‘I would like to take care of you but there isn't any stuff in town. Art is out of town now to bring in a load, and he will be here on Friday, but until he comes back there is no stuff here.’ ”

Now, as I have mentioned, the law under which the indictment in this case is drawn provides that if two or more persons conspire to commit any offense against the United States, and one or more of them does any act to effect the object of the conspiracy, each of the parties to such [285] conspiracy is guilty.

In order to establish the crime charged it is necessary, first, that the conspiracy or agreement to commit the particular offenses against the United States as alleged in the indictment be established, and secondly, to prove further that one or more of the parties engaging in the conspiracy has committed some act to effect the object thereof.

To constitute a conspiracy it is not necessary that two or more persons should meet together and enter into an express or formal agreement for the unlawful venture or scheme, or that they should directly, by words or in writing, state between themselves or otherwise what the unlawful plan or scheme is to be, or the details thereof, or the means by which the unlawful combination is to be made effective. It is sufficient if two or more persons, in any manner, or through any contrivance, positively or tacitly come to a mutual understanding to accomplish a common and unlawful design.

In other words, when an unlawful end is sought to be effected, and two or more persons, actuated by the common purpose of accomplishing that end, work together in any way in furtherance of the unlawful scheme, every one of said persons becomes a [286] member of the conspiracy. The success or failure of the conspiracy is immaterial, but before the defendant may be found guilty of the charge it must appear beyond a reasonable doubt that a conspiracy was formed as alleged in the indictment, and that the defendant was an active party thereto.

In order to warrant you in finding a verdict of guilty against the defendant, it is necessary that you be satisfied beyond a reasonable doubt that a conspiracy as charged in the indictment was entered into between two or more of the defendants to violate the law of the United States in the manner described in the indictment. It is necessary further that, in addition to the showing of the unlawful

conspiracy or agreement, the Government prove to your satisfaction, beyond a reasonable doubt, that one or more of the overt acts described in the indictment was done by one or more of the defendants or at their direction or with their aid.

Under the charge made the conspiracy constitutes the offense, and it must be made to appear from the evidence, beyond a reasonable doubt, before the defendant can be convicted, and that the defendant was a party to the conspiracy and [287] unlawful agreement charged, and that he continued to be such up to the time that overt acts were committed, if the evidence shows that there were any such. The mere fact that the defendant may have engaged in the performance of any of the acts charged in the indictment as overt acts, would not authorize a conviction by reason of that fact alone, but it is necessary to show that such defendant was a party to the conspiracy and unlawful agreement before his guilt of the offense charged is made out.

Each party must be actuated by an intent to promote the common design. If persons pursue by their acts the same unlawful object, one performing one act, and a second another act, all with a view to the attainment of the object they are pursuing, the conclusion is warranted that they are engaged in a conspiracy to effect that object. Cooperation in some form must be shown. There must be intentional participation in the transaction with a view and purpose to further the common design. And if a person, understanding the unlawful character of

a transaction, encourages, advises, or in any manner, with a purpose to forward the enterprise or scheme, assists in its prosecution, he becomes a conspirator. And so a [288] new party, coming into a conspiracy after its inception, with knowledge of its purpose and object, and with intent to promote the same, becomes a party to all of the acts done before his introduction into the lawful combination, as well as to the acts done afterwards. Joint assent and joint participation in the conspiracy may be found, like any other fact, as an inference from facts proved.

Where the existence of a criminal conspiracy has been shown, every act or declaration of each member of such conspiracy, done or made thereafter pursuant to a concerted plan and in furtherance of the common object, is considered the act and declaration of all of the conspirators and is evidence against each of them. On the other hand, after a conspiracy has come to an end, either by the accomplishment of the common design, or by the parties abandoning the same, evidence of acts or declarations thereafter made by any of the conspirators can be considered only as against the person doing such acts or making such statements. The declaration or act of a conspirator not in execution of the common design is not evidence against any of the parties other than the one making such declaration. [289]

The evidence in proof of the conspiracy may be circumstantial. Where circumstantial evidence is relied upon to establish the conspiracy or any other essential fact, it is not only necessary that all the

circumstances concur to show the existence of the conspiracy or fact sought to be proved, but such circumstantial evidence must be inconsistent with any other rational conclusion. That is, you are to consider all of the circumstances and conditions shown in evidence, and if it appears to you as reasonable men that, even though there is no direct evidence of the actual participation in the alleged offense by the defendant, a reasonable inference from all of the facts and circumstances does to your minds, beyond a reasonable doubt, show that the defendant was a party to the conspiracy as charged, then you should make the deduction and find accordingly.

It is not necessary that it be shown that any person concerned in the alleged conspiracy profited by the things which he did, but if the defendant, with knowledge that the law was designed to be violated in the particular manner charged in the indictment, aided in any way by affirmative action in the accomplishment of the unlawful act, he would be guilty. To this statement there is one [290] exception, and that is, if before any overt act has been committed on the part of any conspirator or at his suggestion or with his aid or participation, any such conspirator withdraws from the conspiracy and wholly disassociates himself from the project or the carrying out thereof, he ceases to be a conspirator and is without guilt.

Now, evidence of a former conviction of the defendant for a similar offense was introduced in evidence. This was for a very limited purpose. How-

ever, I will read you an instruction in connection with that.

The fact that the accused may have committed an offense at some time is not evidence that at a later time the accused committed the offense charged in the indictment, even though both offenses be of a like nature. Evidence as to an alleged earlier offense of a like nature may not therefore be considered in determining whether the accused did the acts charged in the indictment. Nor may such evidence be considered for any other purpose, unless the jury first finds that the other evidence in the case, standing alone, establishes beyond a reasonable doubt that the accused did the acts charged in the indictment.

If the jury should find from the other evidence in [291] the case that the accused did the acts charged in the indictment, then the jury may consider evidence as to an alleged earlier offense in determining the state of mind or intent with which the accused did the acts charged in the indictment. And, where all the elements of an alleged earlier offense of a like nature are established by evidence which is clear and conclusive, the jury may draw therefrom the inference that in doing the acts charged in the indictment, the accused acted wilfully, and not because of mistake or inadvertence or other innocent reason.

Now, by the finding of an indictment no presumption whatsoever arises to indicate that a defendant is guilty, or that he has had any connection with, or responsibility for, the act charged against him.



A defendant is presumed to be innocent at all stages of the proceeding until the evidence introduced on behalf of the Government shows him to be guilty beyond a reasonable doubt. And this rule applies to every material element of the offense charged. Mere suspicion will not authorize a conviction. A reasonable doubt is such a doubt as you may have in your minds when, after fairly and impartially considering all of the evidence, you do not feel satisfied to a [292] moral certainty of the defendant's guilt. In order that the evidence submitted shall afford proof beyond a reasonable doubt, it must be such as you would be willing to act upon in the most important and vital matters relating to your own affairs.

Reasonable doubt is not a mere possible or imaginary doubt or a bare conjecture; for it is difficult to prove a thing to an absolute certainty.

You are to consider the strong probabilities of the case. A conviction is justified only when such probabilities exclude all reasonable doubt as the same has been defined to you. Without it being restated or repeated, you are to understand that the requirement that a defendant's guilt be shown beyond a reasonable doubt is to be considered in connection with and as accompanying all the instructions that are given to you.

In judging of the evidence, you are to give it a reasonable and fair construction, and you are not authorized, because of any feeling of sympathy or other bias, to apply a strained construction, one that is unreasonable, in order to justify a certain



verdict when, were it not for such a feeling or bias, you would reach a contrary conclusion. And, whenever, after a careful consideration of [293] all of the evidence, your minds are in that state where a conclusion of innocence is indicated equally with a conclusion of guilt, or there is a reasonable doubt as to whether the evidence is so balanced, the conclusion of innocence must be adopted.

You are the sole judges of the credibility and the weight which is to be given to the different witnesses who have testified upon this trial. A witness is presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testifies; by the character of his testimony, or by evidence affecting his character for truth, honesty and integrity or his motives; or by contradictory evidence. In judging the credibility of the witness in this case, you may believe the whole or any part of the evidence of any witness, or may disbelieve the whole or any part of it, as may be dictated by your judgment as reasonable men. You should carefully scrutinize the testimony given, and in so doing consider all of the circumstances under which any witness has testified, his demeanor, his manner while on the stand, his intelligence, the relations which he bears to the Government or the defendant, the manner in which he might be affected by the [294] verdict and the extent to which he is contradicted or corroborated by other evidence, if at all, and every matter that tends reasonably to shed light upon his credibility. If a witness is shown knowingly to have testified falsely on the trial touching

any material matter, the jury should distrust his testimony in other particulars, and in that case you are at liberty to reject the whole of the witness' testimony.

The defendant has offered himself as a witness and has testified in the case. Having done so, you are to estimate and determine his credibility in the same way as you would consider the testimony of any other witness. It is proper to consider all the matters that have been suggested to you in that connection, including the interest that the defendant may have in the case, his hopes and his fears, and what he had to gain or lose as a result of your verdict. You are not limited in your consideration of the evidence to the bald expressions of the witnesses; you are authorized to draw such inferences from the facts and circumstances which you find have been proved as seem justified in the light of your experience as reasonable men.

There is nothing peculiarly different in the [295] way a jury is to consider the proof in a criminal case from that by which men give their attention to any question depending upon evidence presented to them. You are expected to use your good sense, consider the evidence for the purposes only for which it has been admitted, and in the light of your knowledge of the natural tendencies and propensities of human beings, resolve the facts according to deliberate and cautious judgment; and while remembering that the defendant is entitled to any reasonable doubt that may remain in your minds, remember as well that if no such doubt remains

the Government is entitled to a verdict. Jurors are expected to agree upon a verdict where they can conscientiously do so; you are expected to consult with one another in the jury room and any juror should not hesitate to abandon his own view when convinced that it is erroneous. In determining what your verdict shall be you are to consider only the evidence before you. Any testimony as to which an objection was sustained, and any testimony which was ordered stricken out, must be wholly left out of account and disregarded. The opinion of the judge as to the guilt or innocence of a defendant, if directly or inferentially expressed in these instructions, or at any [296] time during the trial, is not binding upon the jury. For to the jury exclusively belongs the duty of determining the facts. The law you must accept from the Court as correctly declared in these instructions.

Anything occur to you gentlemen that I have overlooked?

Mr. Thurman: I think of nothing, your Honor.

The Court: After you retire to your jury room you will select one of your number to act as foreman and proceed with your deliberations. After you have agreed upon a verdict, in the event you do so agree, you will have the verdict signed by your foreman and returned into open court. Any verdict agreed upon, you understand, must be the unanimous verdict of the jury.

A form has been provided for your guidance which reads, in part, as follows:

“We, the jury, duly empaneled and sworn in

the above-entitled action, upon our oaths do find the defendant Arnold Enriquez, blank, as charged in Count 78 of the indictment.”

You will insert in that blank whatever your finding may be, either guilty or not guilty.

You will retire now in the custody of the bailiff.

(Thereupon, the jury retired from the courtroom at 11:36 a.m. of the same day to proceed with their deliberations.) [298]

I hereby certify that the proceedings had upon the trial of the within entitled cause are contained fully and accurately in the shorthand record made by me thereof, and that the foregoing 297 typewritten pages constitute a full, true and accurate transcript of said shorthand record.

/s/ LOUIS L. BILLAR,  
Official Reporter.

[Endorsed]: Filed July 6, 1950.

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[Title of District Court and Cause.]

CLERK'S CERTIFICATE TO  
RECORD ON APPEAL

I, Willaim H. Loveless, Clerk of the United States District Court for the District of Arizona, do hereby certify that I am the custodian of the records,

papers and files of the said Court, including the records, papers and files in the case of United States of America, Plaintiff, vs. Arnold Enriquez, Defendant, numbered C-8658 Phoenix, on the docket of said Court.

I further certify that the attached and foregoing original documents bearing the endorsements of filing thereon are the original documents filed in said case, and that the attached and foregoing copies of the minute entries are true and correct copies of the originals thereof remaining in my office in the city of Phoenix, State and District aforesaid.

I further certify that said original documents, and said copies of the minute entries, constitute the record on appeal in said case as designated in the Appellant's Designation filed therein and made a part of the record attached hereto (excepting Government's Exhibits 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 which consist of narcotic drugs), and the same are as follows, to wit:

1. Indictment, filed June 16, 1949.
2. Minute entry of November 21, 1949, (arraignment, plea and setting).
3. Minute entry of December 19, 1949, (resetting of trial).
4. Minute entry of April 26, 1950, (proceedings of trial).
5. Minute entry of April 27, 1950, (further proceedings of trial).

6. Minute entry of April 28, 1950, (further proceedings of trial).

7. Verdict, filed April 28, 1950.

8. Government's Exhibit No. 28, filed April 26, 1950.

9. Government's Exhibit No. 29, filed April 27, 1950.

10. Defendant's Motion for New Trial, filed May 1, 1950.

11. Defendant's Motion for Judgment of Acquittal, filed May 1, 1950.

12. Minute entry of May 8, 1950.

13. Minute entry of May 15, 1950, (order denying motions; imposition of sentence).

14. Judgment and Commitment, filed and docketed May 15, 1950.

15. Judgment of Acquittal, filed and docketed May 15, 1950.

16. Minute entry of May 15, 1950, order denying bail pending appeal.

17. Defendant's Notice of Appeal, filed May 15, 1950.

18. Defendant's Election Not to Commence Serving Sentence, filed May 15, 1950.

19. Order of Court of Appeals Granting Motion for Admission to Bail Pending Appeal, filed May 24, 1950.



20. Minute entry of May 24, 1950, (order approving bail bond pending appeal).

21. Bail Bond Pending Appeal, filed May 24, 1950.

22. Minute entry of May 29, 1950, (order extending time to file record).

23. Reporter's Transcript, filed July 6, 1950.

24. Statement of Points on Which Appellant Intends to Rely on Appeal, filed July 27, 1950.

25. Appellant's Designation of Record on Appeal, filed July 27, 1950.

I further certify that the Clerk's fee for preparing and certifying this said record on appeal amounts to the sum of \$6.40 and that said sum has been paid to me by counsel for the appellant.

Witness my hand and seal this 2nd day of August, 1950.

[Seal]      /s/ WM. H. LOVELESS,  
Clerk.

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[Endorsed]: No. 12553. United States Court of Appeals for the Ninth Circuit. Arnold Enriquez, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the District of Arizona. Filed August 4, 1950.

            /s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for the  
Ninth Circuit.



United States Court of Appeals,  
Ninth Circuit

No. 12553

ARNOLD ENRIQUEZ,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS ON WHICH AP-  
PELLANT INTENDS TO RELY ON AP-  
PEAL

I.

There was no substantial evidence to support the verdict of guilty. The lower court erred in denying appellant's motion for judgment of acquittal on Count 78 made at conclusion of the Government's case, renewed after both parties rested and again renewed after the verdict; and the court erred in denying the motion for a new trial; and erred in entering judgment against appellant on Count 78; for there was no evidence to show that appellant was a member of a conspiracy to receive, conceal, transport or import narcotic drugs; nor any evidence that he was a member of a conspiracy to agree to sell or distribute narcotic drugs not in pursuance of written orders on forms issued by the Secretary of the Treasury, as charged in the indictment.

## II.

The court erred in admitting into evidence, in spite of timely objection by appellant, Government's Exhibit 29, which was a record of a prior conviction of appellant. The exhibit could not have been used to impeach appellant and was not relevant to establish guilty intent.

## III.

The court erred in permitting the Government witness, Earl Smith, to testify over timely objection to telephone conversations made by an individual not in the presence of this appellant or any co-defendant who was not at the trial and not available for cross-examination. The evidence was hearsay and was prejudicial to appellant.

## IV.

The court erred in admitting in evidence, over timely objection, Government's Exhibits 4 and 8. These exhibits were purportedly narcotics. The witnesses could not identify the exhibits as they could not find their initials which they stated they placed upon the exhibits.

## V.

The Court erred in admitting, over timely objection by the appellant, Government's Exhibits 19, 22 and 23 which purported to be narcotics. These exhibits were purported narcotics delivered by co-defendant Martinez to Chas. Cobos. Mr. Cobos was not present in court to testify that these were the same exhibits he received from Martinez.

## VI.

The court erred in admitting, over timely objections by appellant, Government's Exhibits 1 through 23 which purported to be narcotics. That this appellant was never linked to any of these exhibits and the Government failed to prove that the appellant was a member of the conspiracy as charged.

## VII.

The court erred in admitting, over timely objection by the appellant, Government Exhibit 28 which purported to be a copy of a Certificate of Title and Registration of a Motor Vehicle, for the reason that the court refused to permit appellant to question the witness on voir dire; that said exhibit was not the best evidence; that said exhibit was not properly certified.

/s/ PAUL H. PRIMOCK,

Attorney for Appellant.

Receipt of Copy Acknowledged.

[Endorsed]: Filed August 15, 1950.

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[Title of Court of Appeals and Cause.]

## DESIGNATION OF RECORD ON APPEAL

To: The Clerk of the above-entitled Court, the United States of America, and Frank E. Flynn, Attorney for Appellee:

The appellant, Arnold Enriquez, hereby designates the following portions of the records and

proceedings of evidence to be contained in the record on appeal, to wit:

1. The Indictment.
2. The Verdict.
3. Motion for judgment of acquittal.
4. Judgment.
5. Judgment of Acquittal on Counts 52, 53, 54, 64, 65, 66, 67, 68 and 69.
6. Reporter's Transcript of Evidence.
7. All Exhibits.
8. All minute entries and orders pertaining to the above-named Appellant.
9. Motion for New Trial.
10. Notice of Appeal.
11. Election not to Commence Serving Sentence.
12. Order Granting Motion for Admission to Bail Pending Appeal.
13. Statement of Points Upon Which Appellant Intends to Rely on Appeal.
14. This Designation.

Dated this 14th day of August, 1950.

/s/ PAUL H. PRIMOCK,  
Attorney for Appellant.

Receipt of Copy Acknowledged.

[Endorsed]: Filed August 15, 1950.